

MEETING NOTICE

The **Ordinary Meeting** of
Bayside Council
will be held in the Committee Room of Botany Town Hall,
Corner of Edward Street and Botany Road, Botany
on Wednesday 8 March 2017 at 7.00 pm

AGENDA

1 ACKNOWLEDGEMENT OF TRADITIONAL OWNERS

2 OPENING PRAYER

3 APOLOGIES

4 DISCLOSURES OF INTEREST

5 MINUTES OF PREVIOUS MEETINGS

5.1 Council Meeting – 8 February 2017

6 ADMINISTRATOR MINUTES

7 PUBLIC FORUM

Members of the public, who have applied to speak at the meeting, will be invited to address the panel.

8 OFFICER REPORTS

8.1 Statutory Financial Report – October 2016

8.2 Statutory Financial Report – November 2016

8.3 1 Market Street, Rockdale – Redevelopment

8.4 Independent Hearing and Assessment Panel for Bayside – Panel Member Appointment

8.5 Interim Accommodation and Co-Location Project

8.6 Botany Bay Gift

9 PLANNING MATTERS

9.1 Draft Central District Plan – Council Submission

9.2 Planning Legislation Updates to EP&A Act – Council Submission

East Bayside Planning Office

9.3 DA-2016/145 for 24 Hambly Street, Botany

9.4 DA-16/24 for 72-86 Bay Street, Botany

9.5 DA-2016/170 for 171 Coward Street, Mascot

9.6 DA-2016/119 for 40 Rawson Street, Mascot

- 9.7 DA-05/123/02 Advertising Sign on the Pedestrian Access Bridge Erected Over Wentworth Avenue at Pagewood (for the Golf Course)
- 9.8 DA-13/208/06 – 52-54 Pemberton Street, Botany
- 9.9 DA-13/208/07 – 52-54 Pemberton Street, Botany
- 9.10 DA-2014/154 for 8 Daphne Street, Botany

West Bayside Planning Office

- 9.11 DA-2017/123 – 194 The Grand Parade, Ramsgate Beach (Opposite 277 the Grand Parade)
- 9.12 DA2017/124 – 1 Princes Highway, Rockdale (Opposite 625 Princes Highway)
- 9.13 DA-2017/125 – 195 The Grand Parade, Monterey (fronting 148 The Grand Parade)
- 9.14 DA-2017/126 - 194 The Grand Parade, Ramsgate Beach (Opposite 209 The Grand Parade)
- 9.15 DA-2017/127 – 199 Rocky Point Road, Sans Souci (fronting 480-494 Rocky Point Road)
- 9.16 DA2015/382 – 6A Gipps Street, Bardwell Valley
- 9.17 DA-2017/188 – 17 Somerville Street, Arncliffe
- 9.18 DA-2017/156 – 15A Wolli Creek Road, Banksia
- 9.19 DA-2017/37 for 62 Moate Avenue, Brighton Le Sands
- 9.20 DA-2017/108 for 12 Bonalbo Street, Kingsgrove

10 MINUTES OF COMMITTEES

- 10.1 Botany Historical Trust Committee – 13 February 2017
- 10.2 Bayside Traffic Committee – 1 March 2017
- 10.3 Local Representation Committee – 1 March 2017

11 CLOSED SESSION OF COUNCIL

- 11.1 Closed Session of Council
- 11.2 CONFIDENTIAL - 1 Market Street, Rockdale – Redevelopment
- 11.3 Resumption of Open Session of Council

Meredith Wallace
General Manager

Council Meeting

8/03/2017

Item No 5.1
Subject **Minutes of Council Meeting – 8 February 2017**
Report by Fausto Sut, Manager Governance & Risk
File (R) SF16/1254

Council Resolution

Minute 2017/018

Resolved by the Administrator:

That the Minutes of the Council Meeting held on 8 February 2017 be confirmed as a true record of proceedings.

Officer Recommendation

That the Minutes of the Council Meeting held on 8 February 2017 be confirmed as a true record of proceedings.

Present

Greg Wright, Administrator

Also present

Meredith Wallace, General Manager
Daniel Fabri, Director City Performance
Debra Dawson, Director City Life
Michael McCabe, Director City Futures
Fausto Sut, Manager Governance & Risk
Alister Duncan, Manager Finance
Karen Purser, Manager Community Capacity Building
Luis Melim, Manager Development Assessment
David Dekel, Coordinator City Places & Systems
Jeremy Morgan, Manager City Infrastructure
Vince Carrabs, Coordinator Media and Events
Ian Vong, IT Support Officer
Anne Suann, Governance Officer

The Administrator opened the meeting in the Rockdale Town Hall at 7.00 pm.

1 Acknowledgement of Traditional Owners

The Administrator acknowledged the traditional custodians of the land, the Gadigal and Bidjigal clans.

2 Opening Prayer

Pastor Andrew Harper of Bay City Church, Rockdale opened the meeting in prayer.

3 Apologies

There were no apologies received.

4 Minutes of Previous Meetings

4.1 Council Meeting – 14 December 2016

Minute 2017/001

Resolved by the Administrator: at the meeting of 8 February 2017

That the Minutes of the Council Meeting held on 14 December 2016 be confirmed as a true record of proceedings.

5 Disclosures of Interest

There were no disclosures of interest.

6 Administrator Minutes

There were no Administrator Minutes.

7 Public Forum

The Administrator invited the following public speakers to address the Council:

- 1 Mr Robert Buffoni speaking against the Officer's recommendation (Item 9.2) – Development Application DA-2017/117 – 31 Riverside Drive, Sans Souci – Construction of a two storey dwelling with basement and roof top terrace and demolition of existing structures.
- 2 Mr Renee Williamson-Noble speaking against the Officer's recommendation (Item 9.2) – Development Application DA-2017/117 – 31 Riverside Drive, Sans Souci – Construction of a two storey dwelling with basement and roof top terrace and demolition of existing structures.
- 3 Mr Enny Michels speaking for the Officer's recommendation (Item 9.2) – Development Application DA-2017/117 – 31 Riverside Drive, Sans Souci –

Construction of a two storey dwelling with basement and roof top terrace and demolition of existing structures.

- 4 Mr Rabi Moussawel speaking for the Officer's recommendation (Item 9.2) – Development Application DA-2017/117 – 31 Riverside Drive, Sans Souci – Construction of a two storey dwelling with basement and roof top terrace and demolition of existing structures.
- 5 Mrs Venetin Aghostin speaking for the Officer's recommendation (Item 9.2) – Development Application DA-2017/117 – 31 Riverside Drive, Sans Souci – Construction of a two storey dwelling with basement and roof top terrace and demolition of existing structures.

8 Reports

8.1 Auditors' Report on the Financial Statements for Rockdale City Council for the Year Ended 9 September 2016

The Administrator asked Mr Alexio Chibika from PriceWaterhouseCoopers to present on the Audit.

Minute 2017/002

Resolved by the Administrator:

- 1 That the former Rockdale City Council's Annual Financial Statements for the financial period 1 July 2015 to 9 September 2016 be received and noted.
- 2 That Council note that PricewaterhouseCoopers, the former Council's external auditor, has reported on:-
 - the financial reports for the financial period ended 9 September 2016 and,
 - the conduct of the audit.
- 3 That Council note that the auditors have concluded that the former Rockdale City Council's financial position as at 9 September 2016 is considered to be sound and stable and that all indicators stand better than accepted industry benchmarks with the exception of the rates outstanding ratio.
- 4 That members of the public may make submissions in respect to the audited financial statements up to close of business on 15 February 2017.
- 5 That any submissions that are received on the Financial Reports be referred to the Auditor.

8.2 Quarterly Budget Review Statement for Quarter Ended 31 December 2016

Minute 2017/003

Resolved by the Administrator:

- 1 That the Quarterly Budget Review Statement by the Manager Finance for the quarter ended 31 December 2016 be received and noted.

- 2 That the changes to the original budget highlighted in this report be adopted by Council.

8.3 ANZAC Day Dawn Service – Bayside East

Minute 2017/004

Resolved by the Administrator:

That Council support Mascot and Botany RSL Sub Branches to commemorate ANZAC Day 2017 in a way that is respectful of past practices and in consultation with representatives from both organisations, including pre ANZAC Day and ANZAC Day activities.

8.4 Representation on Sydney Central Planning Panel

Minute 2017/005

Resolved by the Administrator:

- 1 That Bayside Council's placement in the Sydney Central Planning Panel be noted.
- 2 That formal endorsement be provided, reflecting the appointment of the General Manager and the Director of City Life as delegates to the Sydney Central Planning Panel, to facilitate matters for Bayside Council.
- 3 That the Director of City Performance and the Director of City Presentation be appointed as the two alternate delegates to the Sydney Central Planning Panel.

8.5 Fee Waiver Request – Parkrun Australia

Minute 2017/006

Resolved by the Administrator:

- 1 That Council receive and note the report
- 2 That Council approve a full fee waiver (\$1550 pa) to be granted to Parkrun to run free weekly free 5k run/walk events at Cooks Park for one year subject to a review of the impact on other users at that time.

8.6 Proposed Lease - 203 Stoney Creek Road Bexley - Bexley Golf Club Ltd

Minute 2017/007

Resolved by the Administrator:

- 1 That Council endorse a new lease being granted to Bexley Golf Club Limited, based on the proposed principle terms noted in the body of the report.

- 2 That the lease is subject to Council first complying with s47 of the Local Government Act 1993.
- 3 That the General Manager is authorised to finalise the commercial terms.

8.7 Road Closure – Baxter Road, Mascot

Minute 2017/008

Resolved by the Administrator:

- 1 That the report be received and note this report;
- 2 That the Council resolve, pursuant to Section 34 of the Roads Act 1993 to engage in the formal process of closing Baxter Road, Mascot.

9 Planning Reports

West Bayside Planning Office

9.1 DA-2017/54 – 27-31 Bryant Street, Rockdale

Minute 2017/009

Resolved by the Administrator:

- 1 That Council support the variation to the height control as contained in clause 4.3 – Height of Buildings in Rockdale Local Environmental Plan 2011 in accordance with the request under clause 4.6 submitted by the applicant.
- 2 That Development Application DA-2017/54 for Integrated Development - Construction of a nine (9) storey residential flat building comprising 60 units, three (3) basement levels, rooftop communal open space and demolition of existing structures at Nos. 27-31 Bryant Street, Rockdale be **APPROVED** pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 as a deferred commencement consent as below and subject to the conditions attached to this report.

The consent shall not operate until you satisfy Council about the following matters:

- (i) Approval has been provided by CASA for the proposed penetration of the Limitation or Operations Surface for Kingsford-Smith Airport (Runway 07/25 Approach/Takeoff Surfaces). In the event that CASA do not provide approval for the penetration of the Limitation or Operations Surface the proposal is to be redesigned, to the satisfaction of Council, such that it does not penetrate the Limitation or Operations Surface.*
- 3 That the NSW Department of Planning and Environment be advised of Council's decision.
- 4 That the objector be advised on Council's decision.

9.2 DA-2017/117 – 31 Riverside Drive, Sans Souci NSW 2219

Minute 2017/010

Resolved by the Administrator:

- 1 That Council support the variation to the height control contained in Clause 4.3 of the Rockdale Local Environmental Plan 2011 in accordance with the Clause 4.6 written request submitted by the applicant.
- 2 That the development application DA-2017/117 for the construction of a two storey dwelling with basement and roof top terrace and demolition of existing structures be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
- 3 That the NSW Department of Planning and Environment be advised of Council's decision.
- 4 That the objectors be advised of Council's decision.

9.3 Bayside West Precincts – Council Submission

Minute 2017/011

Resolved by the Administrator:

- 1 That the Administrator endorses the heads of consideration being prepared for Council's submission and delegates the finalisation of Council's submission on the Bayside West Precincts to the General Manager
- 2 That the issue of education and other soft infrastructure be considered as part of the submission.

10 Minutes of Committees

10.1 Bayside Traffic Committee – 1 February 2017

Minute 2017/012

Resolved by the Administrator: at the meeting of 8 February 2017

That the Minutes of the Bayside Traffic Committee meeting held on 1 February 2017 be received and the recommendations therein be adopted.

10.2 Local Representation Committee – 1 February 2017

Minute 2017/013

Resolved by the Administrator: at the meeting of 8 February 2017:

That the Minutes of the Local Representation Committee meeting held on 1 February 2017 be received.

11 Public Reports on Confidential Items

11.1 Appointment of External Members to Audit Committee and Remuneration of Independent External Members of Audit Committee

Minute 2017/014

Resolved by the Administrator:

- 1 That Council adopts the amendments to the Bayside Council Risk and Audit Committee Charter allowing remuneration of Independent External Members as set out in the attachment to this report.
- 2 That Council appoints Ms Jennifer Whitten and Mr Lewis Cook to be Independent External Members of Council's Risk and Audit Committee until the new Council appoints a new committee.
- 3 That Council conducts a process for the appointment of remaining vacant positions of independent members of the Risk and Audit Committee by an advertised Expression of Interest process.

11.2 Tender for Supply and Lay Asphalt and Associated Services

Minute 2017/015

Resolved by the Administrator:

- 1 That the tender from ROADWORX for a lump sum and schedule of rates in the amount of \$1,695,319.29 for Contract Number F16/931 for Supply and Lay Asphalt plus Associated Services be accepted, under Local Government Procurement Pty Ltd (LGP) Contract 213 - Bitumen, Emulsions and Asphalt materials and Services.
- 2 That the General Manager execute Contract Number F16/931 - Supply and Lay Asphalt plus Associated Services, under delegated authority.

11.3 Tender Assessment Results - Cahill Park Playground – Construction

Minute 2017/016

Resolved by the Administrator:

- 1 That funds of \$1,405,894 be allocated for the implementation of Stage 1 Works package including the contract for construction, playground equipment supply and installation, project management and construction contingency.

- 2 That the transfer of funds from reserves to the 2016/2017 Operational Plan for Cahill Park Playground Construction be endorsed as detailed in Table 4 of this report and summarised as follows: \$100,000 from Special Rate Variation Program; \$200,000 from Section 94; and \$310, 200 from Section 94A.
- 3 That, in accordance with Regulation 178 (1)(a) of the Local Government (General) Regulations 2005, Council accept the tender from Glascott Landscape & Civil Pty Ltd in the amount of \$1,099,325.44 (incl GST) for Contract Number F16/941 Cahill Park Playground – Construction, Stage 1 Works package.

12 Confidential Items

12.1 Closed Council Meeting

The Administrator did not close the meeting to the press and public.

Minute 2017/017

Resolved by the Administrator:

That, in accordance with section 11 (2) and (3) of the Local Government Act 1993, the reports relating to the follow items be withheld from the press and public as they are confidential for the reasons outlined:

12.2 CONFIDENTIAL – Appointment of External Members to Audit Committee and Remuneration of Independent External Members of Audit Committee

In accordance with section 10A (2) (a) of the Local Government Act 1993 by reasons of personnel matters concerning particular individuals (other than Councillors).

12.3 CONFIDENTIAL – Tender for Supply and Lay Asphalt and Associated Services

In accordance with section 10A (2) (d) of the Local Government Act 1993 by reasons of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it and it would, on balance, be contrary to the public interest due to the issue it deals with.

12.4 CONFIDENTIAL – Tender Assessment Results - Cahill Park Playground – Construction

In accordance with section 10A (2) (d) of the Local Government Act 1993 by reasons of commercial information of a confidential nature that would, if disclosed, prejudice the commercial position of the person who supplied it and it would, on balance, be contrary to the public interest due to the issue it deals with.

12.4 Resumption of Open Council Meeting

The Administrator did not close the meeting to the press and public.

The Administrator closed the meeting at 7.53 pm.

Greg Wright
Administrator

Meredith Wallace
General Manager

Council Meeting

8/03/2017

Item No	8.1
Subject	Statutory Financial Report - October 2016
Report by	Alister Duncan, Manager Finance
File	(R) F09/605

Summary

This report is provided in accordance with the Local Government (General) Regulations, 2005, Division 5, paragraph 212 and s625 of the Local Government Act, 1993.

The necessary certificate by the Responsible Accounting Officer is included in this report, and the Statutory Financial Reports are presented as follows:-

- Investment Performance Against Benchmark
- Statement of Bank Balances
- Restricted and Unrestricted Cash Balances
- Schedule of Investments

As at 31 October 2016, Bayside Council had \$278.8m in cash and investments with an adjusted portfolio yield of 2.83%.

Details of individual investments held are tabled in the body of this report.

Council Resolution

Minute 2017/019

Resolved by the Administrator:

That the Statutory Financial Report by the Responsible Accounting Officer be received and noted.

Officer Recommendation

That the Statutory Financial Report by the Responsible Accounting Officer be received and noted.

Background

Balance of report is attached.

Financial Implications

Not applicable

Community Engagement

Not required

Attachments

Statutory Financial Report October 2016.

Council Meeting

8/03/2017

Item No	8.2
Subject	Statutory Financial Report - November 2016
Report by	Alister Duncan, Manager Finance
File	(R) F09/605

Summary

This report is provided in accordance with the Local Government (General) Regulations, 2005, Division 5, paragraph 212 and s625 of the Local Government Act, 1993. The necessary certificate by the Responsible Accounting Officer is included in this report, and the Statutory Financial Reports are presented as follows:-

- Investment Performance Against Benchmark
- Statement of Bank Balances
- Restricted and Unrestricted Cash Balances
- Schedule of Investments

As at 30 November 2016, Bayside Council had \$281.3m in cash and investments with an adjusted portfolio yield of 2.80%.

Details of individual investments held are tabled in the body of this report.

Council Resolution

Minute 2017/020

Resolved by the Administrator:

That the Statutory Financial Report by the Responsible Accounting Officer be received and noted.

Officer Recommendation

The Statutory Financial Report by the Responsible Accounting Officer be received and noted.

Background

Balance of report is attached.

Financial Implications

Not applicable

Community Engagement

Not required

Attachments

Statutory Financial Report November 2016.

Council Meeting

8/03/2017

Item No	8.3
Subject	1 Market Street, Rockdale
Report by	Ben Heraud, (Acting) Manager – Property and Venues Jeff Appel - Development Manager
File	F15/448

Summary

[Additional information relevant and ancillary to this matter is contained within a Confidential Report titled 1 Market Street, Rockdale – Confidential Attachments, considered by Council as a separate item on the Agenda.]

Council owns 1 Market Street, Rockdale (the Site) and this property is the subject of a 50 year ground lease, which will conclude in 2024.

Council adopted the Rockdale Town Centre Masterplan in 2012, which identified 1 Market Street as a key site and envisaged (summarised):

Redevelopment of the Target store (1 Market Street, Rockdale), public car park and adjoining lots for a high quality mixed use development which addresses Market Street, King Lane and the new town square". The development of the site 'will form the necessary link between the civic precinct and King Street precinct, with a food provedore on the ground floor of a mixed use development with 'increased residential densities' above.

Council resolved to progress the redevelopment of the Site in April 2015 by engaging with the Head Lessee (Plaza Apartments/City Freeholds) and adjoining owners, to realise the Town Centre Masterplan. Engagement with the head lessee was warranted due to the existence of the head lease.

The redevelopment was the subject of a series of Council Meetings and Information Sessions, and the matter now culminates with the development of key terms that would inform the development of contract documentation to enable a proposed re-development of the Site to progress.

This report addresses the principle terms developed to date and seeks endorsement to progress the compilation of a non-binding Project Delivery Agreement, for consideration by Council at a future Council meeting.

Council Resolution

Minute 2017/021

Resolved by the Administrator

- 1 That Council endorse, in principle, the key transactional principles outlined in the confidential Attachment E to this report.

- 2 That the in-principle endorsement of Resolution 1 (above) and/or further negotiations does not legally bind the Council.
 - 3 That Council endorse the development of a full Project Delivery Agreement for the matter and that the Project Delivery Agreement, once in final form, be referred back to Council for further approval.
 - 4 That funds be voted from the Strategic Priorities Reserve to attend to the anticipated costs outlined in section titled "Costs."
-

Officer Recommendation

- 1 That Council endorse, in principle, the key transactional principles outlined in the confidential Attachment E to this report.
 - 2 That the in-principle endorsement of Resolution 1 (above) and/or further negotiations does not legally bind the Council.
 - 3 That Council endorse the development of a full Project Delivery Agreement for the matter and that the Project Delivery Agreement, once in final form, be referred back to Council for further approval.
 - 4 That funds be voted from the Strategic Priorities Reserve to attend to the anticipated costs outlined in section titled "Costs."
-

Background

Council owns 1 Market Street, Rockdale (the Site) and this property is the subject of a 50 year ground lease granted to Stock and Holdings (General) Pty Ltd in 1975. The lease required Stock and Holdings to develop the Site to create a retail floor plate and public parking. By way of successive assignments, the lease is now held by Plaza Apartments Pty Ltd ('Plaza Apartments'), whose lease performances are guaranteed by City Freeholds Pty Ltd ('City Freeholds').

The retail floor was sublet to Target by way of a 40 year lease, with a further 10 year option. Target did not exercise their 10 year option and vacated the Site in November 2015. Despite the conclusion of the Target sublease, the head lease with Plaza Apartments remains in force until 3 December 2024.

The end of the Target sub-tenancy created an opportunity for Council to explore the redevelopment of the Target Site, for the purposes of delivering the revitalisation outcomes identified in the Rockdale Town Centre Master plan prior to 2024.

Council considered the redevelopment opportunity at their meetings of 1 April 2015 and 4 November 2015 and established resolutions to progress negotiations with City Freeholds.

City Freeholds has recently secured a 5 year sub-tenancy with Charlie Sports Pty Ltd (Paul's Warehouse) to operate a discount clothing outlet store.

Whilst the retail space previously occupied by Target is now occupied, merit still remains to progress the redevelopment of the Site. The merit centres on the delivery of the re-vitalisation outcomes identified in the Rockdale Town Centre Masterplan, prior to the expiration of the Head Lease concluding in 2024. Further the tenancy provides activation of the retail area, to support the town centre, whilst approvals to enable the development are secured.

Council Process and Decisions to Date

The redevelopment was considered by Council at a series of Information Sessions and formal Council meetings. The following provides a summary of the key decisions emanating from previous meetings.

Council Meeting 1 April 2015 – (Refer to Confidential Attachment A)

The Council report of 1 April 2015 considered the merits of engaging with both the Head-Lessee of the Site (City Freeholds) and the adjoining landowners, to discuss progressing the Rockdale Town Centre Masterplan via redevelopment.

Council resolved as follows:

- 1 That Council engage with the Head Lessee of 1 Market Street, Rockdale and adjoining property owners to identify long term use strategies for the site which align with the key outcomes of the Rockdale Town Centre Master Plan.
- 2 That Council obtain legal, probity, planning, valuation and any other required specialist advice to guide discussions arising from resolution 1 above and the assessment of the identified strategies.
- 3 That Council appoint an external probity officer to oversee the process.
- 4 That the regular updates be provided to Council's Investment Strategy Working Group, with a further report to be submitted to Council on the short listed strategies.

Councillor Information Session 24 June 2015 – (Refer to Confidential Attachment B)

Council at an Information Session held on 24 June 2015 considered a presentation that addressed:

- The indicative development options;
- Identified advantages and disadvantages of each development option; and
- Preliminary feasibility analysis.

Council Meeting 4 November 2015 – (Refer to Confidential Attachment C)

Council at their meeting of 4 November considered a report which formally tabled the development options for the Site, previously considered at the prior information session (held on 24 June). In addition, Council considered specialist legal advice, compiled by Clayton Utz, pertaining to Section 55(3) of the Local Government Act and the pursuance of direct dealings, based on extenuating circumstances.

Council resolved as follows:

- 1 Council endorses the concept noted as Development Option 2 in the body of this report.
- 2 That Council note the legal advice annexed to this report drafted by Clayton Utz.
- 3 That, pursuant to section 55(3)(i) of the Local Government Act 1993, Council resolves not to invite tenders for a proposed redevelopment 1 Market Street, Rockdale (on a basis consistent with Development Option 2) having regard to extenuating circumstances and the unavailability of competitive or reliable tenderers, by virtue of the existing lease to Plaza Developments not expiring until December 2024.
- 4 That, further to resolution 3, Council endorse direct negotiations with the Proposed Proponents nominated in the body of this report.
- 5 That prior to entering into direct negotiations, Council resolve to prepare a probity plan in strict accordance with the principles tabled in the body of this report.
- 6 That the direct negotiations are not binding on the Council and a further report will be provided to Council before any approval could be granted to enter into contracts.
- 7 That Council engage with the Division of Local Government Council for completeness and transparency.
- 8 That the Investment Strategy Working Group is provided with regular updates on this matter.

A copy of the correspondence sent to the Division of Local Government (Resolution 7) is tabled as Confidential Attachment E

Information Session 23 March 2016 – (Refer to Confidential Attachment D)

Ernst and Young were retained by Council to assist with providing specialist commercial advice, such as transactional structure and defining value for money outcomes.

Council were presented with options on the potential commercial structuring of a future transaction.

Further, Council were presented with Ernst and Young's consideration of the pros, cons and opportunities as they related to each structure proposed.

The view expressed was that the transactional structure must maximise the value of the Site, minimise risk and ensure the delivery of the Rockdale Towne Centre outcomes, including the delivery of public infrastructure.

Commercial Terms and Draft Term Sheet

Subsequent to the Information Session held on 23 March 2016, negotiations were conducted with City Freeholds. The purpose of these negotiations were to progress a transactional structure and to develop principle terms that would guide the compilation of legal documents for the transaction.

A Draft Project Overview Discussion Paper (the 'Terms Sheet') was developed, which outlines the key principles for a proposed transaction. The following sections address the salient elements of the proposed transactional structure, the Terms Sheet, commercial considerations and next steps.

Proposed Structure

The proposed transactional structure is by way of a Project Delivery Agreement. In essence, development would be undertaken whilst Council are land owner. An option could exist for Council to cease being the owner post the completion of retail and parking levels and prior to the development of the residential component. This would be subject to an agreed value.

A Project Delivery Agreement transactional structure could also allow Council greater control over the built form outcomes, particularly to ensure the delivery of the key elements contemplated within the Rockdale Town Centre Masterplan.

Terms Sheet

The Terms Sheet tabled as Confidential Attachment E.

The Terms Sheet outlines the key commercial terms that would be used to inform the development of a Project Delivery Agreement.

Broad Financials

To date, Council has undertaken preliminary due diligence on the Site. This work has included:

- Development of a detailed concept plan to determine site yield;
- Concept structural design for the basement levels;
- Geo-technic investigation;
- Site survey;
- Cost Plan (Quantity Survey) of the anticipated development costs; and
- Feasibility analysis of the project.

The broad financials are outlined in Confidential Annexure F (page 107).

Next Steps

Post the adoption of this report, and prior to the matter being referred back to Council, the following critical next steps will occur:

- Development of an optimised development scheme, incorporating the delivery of the key elements within the Town Centre Masterplan, such as open space and public car parking.
- Further feasibility work to inform the financial elements of the Project Delivery Agreement.
- Drafting of the legal documentation and negotiation of terms.

Costs

The estimated costs to progress the matters outlined as the 'Next Steps' are estimated to be between \$114,620 and \$135,620 (Itemised Breakup - refer to Confidential Attachment G). In broad terms, the expenditure will centre on professional services such as legal, commercial consultancy and probity services. Expenditure on these items are, on the whole, specific to the current matter.

If the matter does not progress to a stage whereby there is an agreement between parties on the final terms, culminating in an executed Project Delivery Agreement, then further expenditure would be required if Council sought to re-address the matter at the completion of the head lease in 2024. In this event, some of the base information developed to date, such as design, feasibility and base legal documents could assist Council if the matter were re-visited at the completion of the head lease.

Expenditure contemplated for this matter is to be accordance with Council's Procurement Policy.

Financial Implications

The direct financial implications emanating from this report are estimated to to be between \$114,620 and \$135,620 (Itemised Breakup - refer to Confidential Attachment G).

Community Engagement

N/A

Attachments

Attachments A to G (inclusive) – TRIM Ref 16/144024
(**As Attachments A to G are confidential, they will be circulated separately from the business paper and to the Administrator and relevant senior staff only**)

Council Meeting

8/03/2017

Item No	8.4
Subject	Independent Hearing and Assessment Panel for Bayside Council
Report by	Fausto Sut, Manager Governance and Risk Michael McCabe, Director City Futures
File	(R) F14/64 & (B) S16/168

Summary

This report:

- Proposes a more contemporary name for the Independent Hearing and Assessment Panel (IHAP).
 - Outlines results of Expressions of Interest process for positions of Independent Specialist Members and Community Representatives on Bayside Planning Panel being the IHAP for Bayside Council.
 - Outlines the remuneration fees to members of the Bayside Planning Panel.
-

Council Resolution

Minute 2017/022

Resolved by the Administrator:

- 1 That the Council receive and note the report.
 - 2 That Council adopts the name "Bayside Planning Panel" as the name for the Independent Hearing and Assessment Panel for Bayside Council.
 - 3 That Council notes the appointments of the twelve independent specialist members on the Panel as contained in this report.
 - 4 That Council notes the appointments of two community representatives contained in this report and the further advertising of positions to form a minimum pool of five community representatives.
-

Officer Recommendation

- 1 That the Council receive and note the report.
- 2 That Council adopts the name "Bayside Planning Panel" as the name for the Independent Hearing and Assessment Panel for Bayside Council.
- 3 That Council notes the appointments of the twelve independent specialist members on the Panel as contained in this report.

- 4 That Council notes the appointments of two community representatives contained in this report and the further advertising of positions to form a minimum pool of five community representatives.
-

Background

At the 14 December 2016 Council meeting the decision was made to establish an Independent Hearing and Assessment Panel (IHAP) and adopt a Charter for the Panel. It was also resolved that the General Manager, in consultation with the Administrator appoint three (3) Independent Hearing and Assessment Panel professional members and seek expressions of interest for a 'pool' of five (5) community representatives (one from each Ward of the Council) to represent the community on the Independent Hearing and Assessment Panel.

To be eligible, the independent specialist members will have qualifications and experience in one or more of the following areas: law; planning; urban design; architecture; heritage; the environment; land economies; traffic and transport; engineering; tourism; and government and public administration. These independent specialists must not live in the local government area and must not undertake any work within the Bayside Council area that may conflict with their role on the Panel. The Panel also consists of two (2) local community representative.

In terms of the community representatives a minimum pool of five (5) is proposed being residents of the Bayside local government area and one for each Ward of the Council. It is highly desirable that they possess the expertise or experience in one or more of the specialist areas previously mentioned as well as links to the local community.

An Expression of Interest process commenced on 14/2/17 and concluded on 24/2/17 seeking suitably qualified people to become members of the Panel.

The Expressions of Interest Process resulted in 41 applications being received for the independent specialist members and five applications for the community representatives. Applications were reviewed by an evaluation panel consisting of the Manager Governance & Risk, the Director City Futures, the Manager Development Assessment and an Urban Designer.

Independent Specialists

The high quality of the applications has provided the opportunity to enlist a high calibre pool of professional people with the breadth and depth of experience to meet the needs of Bayside Council. The applicants provided a range of qualifications and experience in private and public sectors including local government, the specialist areas (particularly town planning, urban design, law, environmental science, and architecture), land and environment court, other IHAPs, and Joint Regional Planning Panels.

The Charter authorises the General Manager to appoint a pool of persons to be independent specialist members of the Panel. Given the anticipated significant workload of the Panel, this allows a sufficient number of independent specialist members to be appointed to allow for such circumstances as work and other commitments, conflicts of interest non attendances, and specialised matters.

The General Manager has reviewed the Evaluation Panels' assessment and recommendation and in accordance with the authority granted in the adopted Charter has made the following appointments:

No	Name	Qualifications & Experience
1.	Kara Krason, Director Liveability Planning Strategy	Qualifications including town planning JRPP member IHAP – Lane Cove Significant local government experience
2.	David Johnson	Qualifications in environmental science Commissioner – NSW Planning Assessment Commission IHAP – Lane Cove, Inner West, Parramatta
3.	Jan Murrell	Qualifications including Town Planning Commissioner at Land & Environment Court (L&EC) IHAP –North Sydney (Chair), Waverley, Inner West, Canterbury Extensive experience in planning and L&EC
4.	Robert Montgomery, Montgomery Planning Solutions	Qualifications in Town Planning IHAP – Wollongong (Chair), Liverpool (Chair) Consultant planner with considerable local government experience
5.	Peter Brennan, Town Planner	Qualifications including Town Planning IHAP – Waverley, North Sydney Joint Regional Planning Panel (JRPP) Extensive senior local government planning experience
6.	Robert Hussey,	Qualifications including Engineering & Town Planning Commissioner L&EC Extensive court and local government experience
7.	Ross Bonthorne, OAM, Director – Ross Bonthorne (Architect)	Qualifications including in Architecture Sydney Planning & Development Committee Chair Extensive experience in urban design, planning and architecture
8.	Michael McMahon, M.E. McMahon and Associates – Planning and Environmental Law	Qualifications including legal IHAP – Sutherland, Liverpool, Fairfield, Canterbury Assistant Registrar – L&EC Accredited specialist in local government and planning law
9.	Brendan Randles, Architect	Qualifications including architecture & urban design IHAP - Wollongong Extensive experience urban design and architecture
10.	Lindsey Dey, Planner	Qualifications including town planning IHAP – Lane Cove Extensive planning experience including local government
11.	Mark Seymour, Barrister – MP Chambers	Qualifications including legal and planning Barrister with extensive experience in environmental law
12.	David Crofts, Strategy Hunter Consultants	Qualifications in town planning and environment management IHAP –Wollongong, Shellharbour, Liverpool and Waverley Extensive urban and regional planning experience including local government

The General Manager will appoint the Chair and two Panel members from the above list and it is proposed that some rotation of nominated members will occur.

Community Representatives

The advertising for community representatives did not solicit the same level of response as with the Independent Specialist members and therefore it was considered not advisable to make all appointments at this stage. A further re-advertising for community representatives has commenced. However of the five current applicants, the Evaluation Panel considered that two applicants were worthy of appointment taking into account their eligibility, superior skills and experience.

The General Manager has reviewed the Evaluation Panels' assessment and recommendation and in accordance with the authority granted in the adopted Charter has made the following appointments for the positions of Community Representatives on the Panel:

No	Name	Comments
1.	Thomass Wong	Resides in Eastgardens Qualifications including Science (Architecture) and Town Planning Local Government planning experience. Has no work in LGA
2.	Joe Bevacqua	Resides in Kyeemagh Qualifications in Town Planning Local Government planning experience. Has no work in LGA

The General Manager will determine the remaining Community Representative positions following the conclusion of the re-advertising process.

Remuneration

The General Manager has authority under the Charter to determine the level of remuneration to be paid to members of the Panel. It is proposed that **Bayside Planning Panel** members be remunerated at a rate (inclusive of GST) of \$1200 per meeting attended and an additional fee of \$200 for the Chairperson ie \$1400 per meeting attended. This will be an all-inclusive fee including attendance at site inspections on the day of the meeting. The fee is consistent with the Government's guide to the payment by councils of community members on their Regional Panels.

Name of Panel

It is considered that a more contemporary name for the Bayside IHAP is fitting and it is recommended that the name be changed to **Bayside Planning Panel**. If approved the consequential amendments to the Charter will be made.

Financial Implications

The previous report indicated that additional funds will be required for the operation of the Bayside Planning Panel. As the fees for members has now been determined, a budget variation will be submitted as part of the third quarter budget review.

Community Engagement

Not required.

Attachments

Nil.

Council Meeting

8/03/2017

Item No	8.5
Subject	Interim Accommodation and Co-Location Project
Report by	Mariam Fares, Accommodation and Co-location Lead
File	(R) SC16/282

Summary

The report outlines the proposed Bayside staff accommodation proposal, including the location of sites to accommodate staff that need to be co-located, the extent of works proposed at these sites, as well as the financial implications of the works involved.

Council Resolution

Minute 2017/023

Resolved by the Administrator:

- 1 That the Bayside staff accommodation proposal, including associated extent of works be approved for implementation.
 - 2 That the estimated costs for the proposed works at the Rockdale, Hillsdale and Bexley sites, as outlined in the Financial Implications section of this report, be approved and the necessary adjustments be included in the March 2017 Quarterly Review.
-

Officer Recommendation

- 1 That the Bayside staff accommodation proposal, including associated extent of works be approved for implementation.
 - 2 That the estimated costs for the proposed works at the Rockdale, Hillsdale and Bexley sites, as outlined in the Financial Implications section of this report, be approved and the necessary adjustments be included in the March 2017 Quarterly Review.
-

Background

Context:

After the proclamation and the formation of a new organisation structure, Bayside staff were consequently divided from their new respective teams. Whilst a new venue in a neutral location will appropriately accommodate and co-locate staff as well as provide a new identity for the Bayside community, it will also take a few years in order to acquire an appropriate site, as well as investigate the best reuse of both Mascot and Rockdale Administration buildings. In the intervening time, with Directors and Managers now formalised within the organisational structure, the physical separation of teams has become an immediate

challenge and therefore an interim accommodation and co-location plan is necessary for comparable teams to work together sooner in order to maintain service continuity.

Bayside staff accommodation proposal:

The proposal is to accommodate all Bayside staff within existing council owned sites and only have one main administration facility operating. The proposal will involve less than 25% of Bayside Staff being re-located from their current work place locations, with approximately 75% of staff remaining in their current locations. The interim accommodation and co-location plan proposes to:

- Minimise travelling times between work venues to collaborate with team members
- Create synergies within teams not currently located together
- Mitigate maintenance costs of running two main administration facilities
- Provide adequate management and support to staff due to teams being co-located
- Bring together displaced or isolated staff
- Help create consistency between different practices and processes by teams being located together
- Allow customers to readily identify with their new council due to teams being located together

The options associated with the locations were influenced by:

- Space available within suitable Council sites;
- Practicality of the sites for day-to-day business activities, and;
- Relationships and interdependencies between different service units.

The four main sites that have resulted in meeting the above criteria for the interim co-location of Bayside staff are:

- Rockdale Administration building, 2 Bryant Street Rockdale
- Botany Depot – 23A Clevedon St, Botany
- Bexley Depot – 10 Rye Avenue, Bexley
- Hillsdale Community Centre – 236 Bunnerrong Road, Hillsdale

Location and context of each site:

- Rockdale Administration building

The site is located on the corner of Bryant and York Street, and is formally known as Lot 2 DP 565805, Lot 3 DP 565805, Lot 1 DP 881339 and Lot 1 DP 565805, 2 Bryant Street Rockdale, NSW 2216. It is located in a B2 – Local Centre Zone within close proximity

(approximately 400m walk) to Rockdale Train Station. The Rockdale Administration Centre, a three storey office building with a basement car park, currently occupies the site.

Adjoining the site to the east is the Rockdale Town Hall and the recently constructed Rockdale Library and Customer Service Centre. To the west of the site is a time restricted public car park. The site is surrounded by a mix of residential, community and commercial uses of varying scales.

- Botany Depot

An existing single storey building that is currently used by staff as office accommodation is located within Council's Botany Depot site. This site is located on the corner of Clevedon Street and Pemberton Street, and the building is situated within the part of the site that is formally known as Lot 1 DP191664, 23A Clevedon St, Botany NSW 2019. The site is zoned B4 – Mixed Use Zone, however the use of the site as a depot is permissible under the Schedule 1 – Additional permitted uses of Botany Bay Local Environmental Plan 2013.

The site is located within close proximity to William and Swinbourne Street which have regular bus services to Central Station. The site is surrounded by industrial buildings of various nature and backs on to the rear yards of low residential dwellings fronting Kurnell Street.

- Bexley Depot

The demountable is an existing structure within Council's Bexley Depot site, which is located on the western side of Rye Avenue, between Stoney Creek Road and Highgate Street, and is formally known as Lot 102 DP 1042328, Lot B DP 368323, 10 Rye Avenue, Bexley, NSW 2207. The site is zoned partially SP2 – Infrastructure, and partially RE1 – Public Recreation. The demountable is contained wholly within the SP2 – Infrastructure zone and is currently used as office space by staff. The depot site has frontages to Rye Avenue, Preddy's Lane, Preddy's Road and Highgate Street. The site is within walking distance to Stoney Creek Road, which has regular bus services to Rockdale and Hurstville Train stations.

The site is predominantly surrounded by low and medium density residential dwellings, and is within walking distance to Bexley Park, Bardwell Valley Parklands, Bexley Aged Care Centre, as well as the recently constructed Angelo Anestis Aquatic Centre, which is also partially located within the RE1 – Public Recreation section of the depot site.

- Hillsdale Community Centre – 236 Bunnerrong Road, Hillsdale

The site is located on the western side of Bunnerrong Road, between Flint Street and Devitt Place, and is formally known as Lot 3 DP 414270, 236 Bunnerrong Road, Hillsdale. The two storey Hillsdale Community Centre currently occupies the site. The building is viewed as single storey from Bunnerrong Road, with community facilities and services operating at ground level with direct pedestrian access from Bunnerrong Road. The lower level of the building is currently vacant, however, was previously used as office space which had accommodated council staff. The lower level has direct access via a right of Carriageway located at the rear of the site that the site benefits from, as well as access from the ground floor via staircases. One onsite parking space exists on the site, which is currently accessed via the right of carriageway. The building wraps around a central courtyard located at the lower ground level with a light well running through both floors.

The site is located next door to South Point Shopping Centre and opposite the recently refurbished Heffron Park. Bunnerrong Road has regular bus services to Eastgardens, Central Railway Station, Port Botany, Randwick Junction and City Martin Place.

Extent of works:

Rockdale Administration Centre

The proposed works to the Rockdale Administration Centre includes an office fit-out of the now vacated previous customer service area and the reconfiguration of existing office spaces in order to accommodate approximately 81 persons per floor, subject to compliance with the Building Code of Australia (BCA). The proposed works are all internal, consisting of the following:

Ground floor:

- Removal of internal partition walls that separated the previous customer service area from staff seating areas
- An office fit-out of Rockdale City Council's previous customer service area
- Minor reconfiguration of existing office areas

1st Floor:

- Minor removal of internal partition walls
- Minor reconfiguration of existing office desks
- Refurbish

2nd Floor

- Removal of internal partition walls
- Relocation of conference room to the southern side of the building opposite the existing lift
- New office fit-out areas and minor reconfiguration of existing office spaces.

Botany Depot

The Depot Administration building was recently refurbished. No building are works proposed in this location.

Bexley Depot Demountable

The proposed works involve an office refurbishment of a small demountable located in the Bexley Depot site. The refurbishment will involve a revised office fit-out, kitchen and bathroom renovation, the removal of one internal partition wall, and the replacement of air

conditioning units. The proposed works are all internal minor works that will have no adverse impacts to the remaining buildings on the site, as well as adjoining properties.

Hillsdale Community Centre

The proposed works involve a refurbishment of the office space at the lower level of the two storey Hillsdale Community Centre. The works involve:

- Removal of all internal partition walls
- Bathrooms renovated to include a disabled and an ambulant bathroom, as well as a bathroom with separate female and male cubicles.
- Upgrade of onsite parking to comply with an accessible/disabled parking space
- Kitchen renovations
- Reapplying line marking of existing parking spaces and walkways in the Right of Carriage Way
- Replacement of all exit doors to comply with Building Code of Australia
- New lighting and emergency services
- Minor upgrade of courtyard area, including new seating benches and landscaping.

The Mascot Administration building:

The co-location provides the opportunity for Council to consider various proposals to use the Mascot Administration Site (141 Coward Street, Mascot) more effectively in order to provide new or increased services to the community. Limits on rate income combined with consistent demands for increased community services and facilities require Council to carefully and methodically consider opportunities to manage real estate assets more effectively.

Activities are underway to investigate and advise on various opportunities to use the Mascot Administration Site to improve Council's financial sustainability and increase Council's ongoing capacity to provide facilities and services to the community. These activities include assessing the current building condition and functionality, site feasibility, potential uses and utilisation, leasehold potential, redevelopment potential and disposal potential. These activities are being undertaken by Council officers in preparation to be guided by the newly elected Bayside Councillors post the 9 September 2017 election. The creation of a working group comprising newly elected Bayside Councillors and staff is proposed to investigate and advise Council on opportunities for the Mascot Administration Site. No long term strategy for the Mascot Administration Site will be determined in the meantime.

Financial Implications

The project will be funded from the Strategic Priorities Reserve Fund. The estimated costs of works for the sites are:

- Rockdale Administration centre: \$685,365
- Hillsdale Community Centre: \$460,000

- Bexley Depot: \$70,000

Note: Some additional funding will be required for computer hardware and set up costs, telephones, contingency allowance, BCA compliance requirements and costs associated with moving people.

Community Engagement

Not required

Attachments

Nil.

Council Meeting

8/03/2017

Item No	8.6
Subject	Request for Council Support for the Botany Bay Gift
Report by	Karen Purser, Manager Community Capacity Building
File	R16/141724

Summary

The New South Wales Athletic League Inc. have requested that Bayside Council provide support including the provision of marquees, marketing support and a \$5,000 donation towards the running of the 2017 Botany Bay Gift at Hensley Athletic Field on Sunday, 2 April 2017.

Council Resolution

1. That Council provide up to three Council branded 3 metre x 3 metre gazebos on the day at no cost.
 2. That Council promotes the event through our website and social media channels.
 3. That Council approve a donation of \$5,000 under Bayside Council's Financial Assistance Policy to the NSW Athletic League Inc.
 4. That Council require acknowledgment of the donation and other assistance provided.
-

Officer Recommendation

1. That Council provide up to three Council branded 3 metre x 3 metre gazebos on the day at no cost.
 2. That Council promotes the event through our website and social media channels.
 3. That Council approve a donation of \$5,000 under Bayside Council's Financial Assistance Policy to the NSW Athletic League Inc.
 4. That Council require acknowledgment of the donation and other assistance provided.
-

Background

The Botany Bay Gift was the first professional footrace to be held in Australia and it was run in Botany in the park now known as the Sir Joseph Banks Park in the 1800's.

In 1988 the then Council, as its bi-centennial project, recreated the Sir Joseph Banks Pleasure Gardens including the oval which was home to the historical footrace. At that time a local businessman the late Graham Wright owner of Maritime Container Services in Botany saw an opportunity to give back to, and create something special for the local community in which he ran his business. He formed the Botany Bay Gift Committee to bring

back the famous race. With the support of the Council, the Botany Bay Gift was re-born in March 1989. It was a community event, not a business venture.

It proved to be a popular community event attracting large crowds not only from the local community, but from throughout Sydney, as people flocked to see some of the world's greatest athletes including Linford Christie, Maurice Green, Cathy Freeman, Melinda Gainsford Taylor, Nova Peris Kneebone, Lauren Hewitt, Matt Shirvington and many more.

In December the Administrator considered a report that highlighted a need for clarity around the management and delivery of the Botany Bay Gift and resolved that:

- 1 That Council continue to work with the NSW Athletics League to develop a program for March 2017 at Hensley Athletic Field.
- 2 That applications by the NSW Professional League be considered in accordance with Council's policy on commercial hire.
- 3 That Council note that it will register and trademark the names Botany Bay Gift and Bayside Gift to preserve the history of the race.

The NSW Athletic League met with the Royal Australian Historical Society at the end of February 2017 to discuss their application to have this iconic sport classified as heritage listed. The former Botany Bay Council has been a major associate with the NSW Athletic League during the modern revival of the Botany Bay Gift since 1988.

Bayside Council has now been invited by the New South Wales Athletic League Inc. to support the Botany Bay Gift 2017. Please note that the organisers have moved the date to 2 April 2017.

To organise this event at Hensley Athletic Field for Sunday, 2 April 2017 the New South Wales Athletic League Inc. have requested that Bayside Council provide support including the provision of marquees, marketing support and a \$5,000 donation towards the running of the event. The letter, including the full list of requests is attached to this report.

Council has previously approved a 100% fee waiver for the use of Hensley Athletic Field for the event.

Council is able to provide the following:

- Up to three Council branded 3 metre x 3 metre gazebos on the day at no cost.
- Electricity and a PA System.
- Promotion of the event through Council's website and social media channels.
- Under Bayside Council's Financial Assistance Policy Council can resolve to contribute \$5,000 as a donation to support the delivery of the Botany Bay Gift. Council would require acknowledgment of the donation and other assistance provided.

We note that Council does not manage the canteen at Hensley Athletics Field and encourages NSW Athletic League to negotiate directly with the canteen management to make catering arrangements for the event.

The NSW Athletic League is currently negotiating sponsorship with NSW Ports. This and the matter of drone coverage for the event is up to NSW Athletic League to negotiate and would not require Council's approval.

Financial Implications

Included in existing approved budget.

It is proposed to expend \$5,000 from Council's Donations Budget – the balance of the support required is in-kind.

Community Engagement

Not required

Attachments

Botany Bay Gift Proposal



NSW ATHLETIC LEAGUE INC.

PO Box 182, Bexley, NSW 2207
Mob: 0400 063 003
Email: billyedw@hotmail.com
Website: www.nswal.org.au

15th February 2017

Presentation to: Meredith Wallace General Manager
The Bayside Council

On behalf of the New South Wales Athletic League Inc.
By William (Bill) Edwards

Dear Madam,

The New South Wales Athletic League Inc. (NSWAL #Y1250207) would like to submit a proposal, similar to previous years with the Botany Bay City Council to promote the Botany Bay Gift 2017.

Last year the NSWAL officiated the 2016 Botany Bay Gift at what has been the home of professional athletics since the 10th May 1884 at the Sir Joseph Banks Park. While the NSWAL was formed in 1903 the handicapping system that is currently used by the League was historically introduced by Mr. Frank Smith then proprietor of the Sir Joseph Banks Hotel at Botany.

The NSWAL has recently gained an audience with the Royal Australian Historical Society at the end of February 2017 to discuss our application to have this iconic sport classified as heritage listed and the Botany Bay Council has been a major associate with the NSWAL during the modern revival of the Botany Bay Gift since 1988.

To organise this event at the alternative venue of Hensley Athletic Field for Saturday the 18th March 2017 we would request that Bayside Council supply:

1. One five-metre square Marquee erected on the inside of the athletic track and a metre before the finish line for NSWAL officials.
2. A second Marquee of similar dimensions one metre beyond the finish line for Council and Sponsors use.
3. A three metre Gazebo adjoining the officials Marquee, for colours stewards and notice board information.
4. Ground electricity for officials Photo finish equipment and two microphones.
5. 5. The area at the side of Grand Stand to be available for a selected charity fundraising BBQ, should the Canteen operator not be prepared to cater for the whole carnival period.
6. A small tent to be available for co-sponsor NSW Ports at the southern side of the grandstand for the distribution of free bottled water and other promotional items to the public.



NSW ATHLETIC LEAGUE INC.

PO Box 182, Bexley, NSW 2207
Mob: 0400 063 003
Email: billyedw@hotmail.com
Website: www.nswal.org.au

7. Hensley Athletic Field access to be made available the Friday before the Botany Bay Carnival for the NSWAL to erect equipment and lay athletes handicap marks etc.
8. As previously agreed with the Botany Bay City Council the Bayside Council would be offered the naming rights to the main event, for a carnival donation of \$5,000.
9. The NSWAL as previously mentioned is a not for profit Incorporated Association and would ask the Bayside Council to waive any ground booking fee for this event.
10. We would encourage the Bayside Council to Organise two overhead street signs at Botany and Mascot shopping centres four weeks before the event. Most signs can be reused the following year by overprinting next year's date which would keep costs to a minimum.

The NSWAL is currently negotiating sponsorship with NSW Ports, and after two meetings we believe this company would support the athletic leagues' endeavour to produce a quality local community event, including the involvement NSW Little Athletics Association.

We will also be speaking to Mr Trevor Brown who is the Environment Manager of NSW Ports regards organising Drone coverage. This promotion could be used by all parties to provide exposure to the Gift, but also attract more young people to the non-contact sport of athletics.

The NSWAL will advertise the Botany Bay Gift through all athletic media including interstate athletic leagues, radio, newspapers and social media outlets.

The NSWAL will also be providing medi releases, statements and social media support.

The NSWAL would hope to return this event to its former glory as the "Jewel in the Crown" of NSW Athletics, as it was in the 1980's.

Look forward to speaking with you.

Bill Edwards President
NSWAL Mobile 0400 463 003

Council Meeting

8/03/2017

Item No	9.1
Subject	Draft Central District Plan – Council Submission
Report by	David Dekel, Coordinator City Places and Systems
File	F16/793

Summary

The Greater Sydney Commission (GSC) released the Draft Central District Plan for comment. This is part of a suite of six District Plans that were released for the Sydney Region. The Central District Plan aims to set out a vision, priorities and actions for the development of the Central District of Greater Sydney over the next 20 years.

Council believes that the suite of plans released by the GSC are a step in the right direction and can lead to meaningful outcomes for the community. However, in reviewing the Draft Central District Plan (the District Plan), Council has identified a number of areas that require further consideration. These include:

- Ambiguity of broad and generic language used in the District Plan, exposing the possibility for inappropriate development outcomes by exploiting vague wording to support proposals.
- Lack of direction for strategic, district and local centres identified within Bayside Council.
- The protection of employment land.
- Delivery of a diversity of housing types, including affordable housing.
- Provision of infrastructure for a growing Bayside – this includes social/community infrastructure as well as transport infrastructure
- Impact of major road infrastructure and other future development on Green and Blue Grid networks.

The GSC has placed the District Plan on exhibition until 31 March 2017. As this is before Council meets in April 2017, it is recommended that Council's submission be finalised by the General Manager and reported to Council at the earliest possible opportunity.

Council Resolution

Minute 2017/025

Resolved by the Administrator:

That the Council supports the heads of consideration being prepared for Council's submission on the District Plan and delegates the finalisation of Council's submission to the General Manager.

Officer Recommendation

That the Council supports the heads of consideration being prepared for Council's submission on the District Plan and delegates the finalisation of Council's submission to the General Manager.

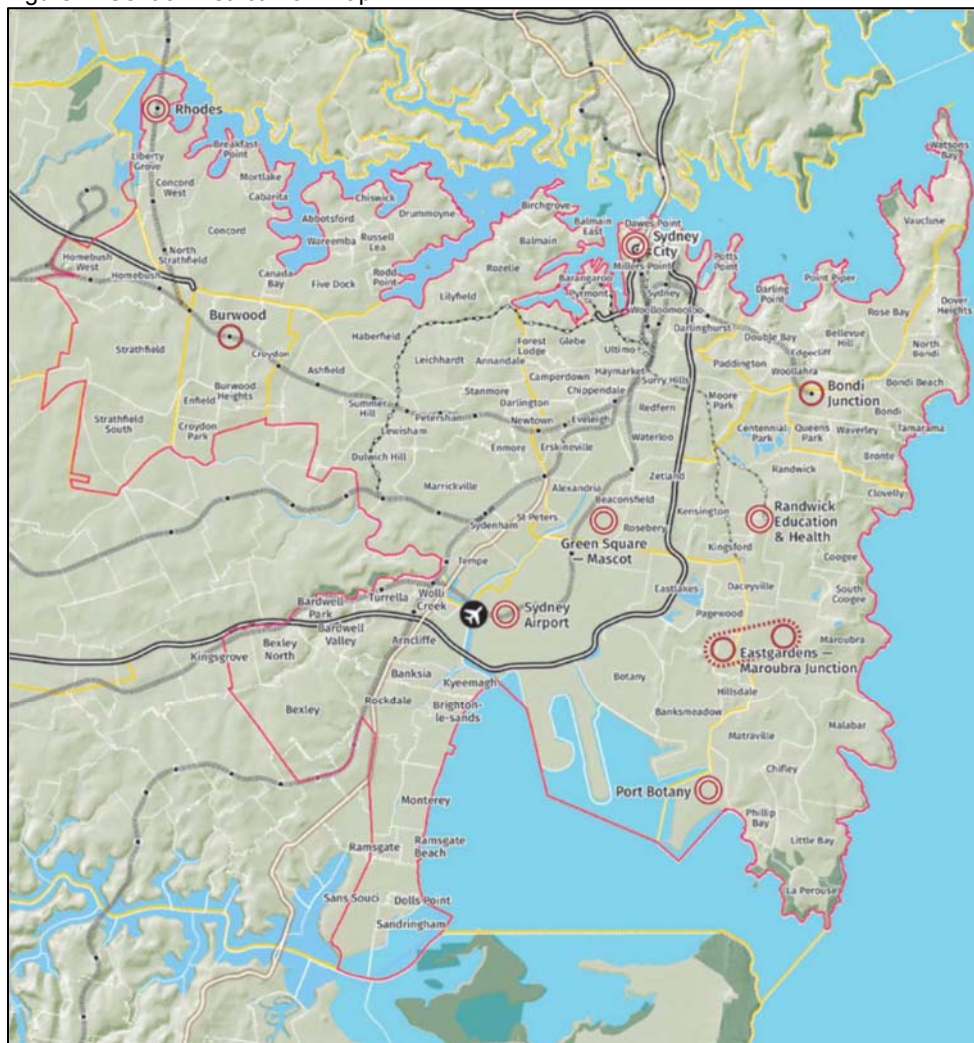
Background

The draft District Plans aim to provide the link between the Sydney metropolitan strategy (*A Plan for Growing Sydney*) and local council strategies. While the proposed changes to *A Plan for Growing Sydney* elaborates on a wider strategy for regional growth across Greater Sydney, the District Plans focus on providing a strategic vision and a comprehensive strategic planning framework for each of the districts in the region.

The District Plan is structured around the principles of a productive city, a liveable city and a sustainable city. Under each of these overarching principles, the plan sets out a number of priorities and actions to deal with issues such as increasing the availability, affordability and diversity of housing, securing the necessary infrastructure to cater for a growing population, providing jobs and economic growth and ecological sustainability.

It should be noted that at the commencement of the District Planning process, the former Council areas of Rockdale and Botany were contained in different districts. The former Rockdale Council was part of the South District, while the former Botany Council was part of the Central District. Upon Proclamation and the establishment of Bayside Council, the newly-created LGA was placed within the Central District. Figure 1 shows a map of the Central District area.

Figure 1: Central District Plan Map



Council officers are currently finalising a submission on the District Plan based on the key issues, including those discussed in this report.

- **Liveability**

One of the core principles of the Central District Plan is to achieve improvements in the liveability of the Central District. However, while the Plan comments on achieving liveable places, the key strategies and actions fall way short in delivering core results to achieve liveability outcomes.

Currently, Council's and the larger community view of liveability, which was borne out of the Technical Working Groups in the development of the draft District Plans, were places that people lived that were close to public transport, high quality open space and other community infrastructure, easy to move around in sustainably, and in close proximity to meaningful work.

However, the majority of pressures on Councils, including key Government indicators, emphasise the meeting of targets for dwelling numbers above all else. The Central District Plan is consistent with this inappropriate approach by quantifying future targets for housing, but failing to be specific about the social, open space, public transport,

education, health and employment needs required to support the forecasted population growth

- **Bayside Council representation**

With the Central District encompassing an area that includes the CBD and most of Sydney's major landmarks and tourist attractions, the District Plan places significant emphasis on the global competitiveness and attractiveness of the Sydney CBD. While this might be true of the Sydney City area, it is possibly less so for the outer parts of the district.

During the planning process, the former Rockdale and Botany Councils contributed significantly to the discussions on the shape of the respective Districts. Issues such as the loss of employment land as a result of increasing pressure from developers, the loss of significant open space due to State Government infrastructure planning as well as pressures from dwelling numbers, and constraints in the delivery of a diverse range of housing were raised during technical working group workshops.

There is little evidence that Council's contribution during the workshops has in fact found itself within the District Plan. There is, therefore, a question as to whether the Central District Plan truly caters for Bayside Council. There seems to be only a limited acknowledgement of the largely suburban characteristics of the southern part of the Bayside area.

- **Reliance on Councils to do the 'heavy lifting'**

The District Plan priorities place a heavy reliance on further investigations being undertaken to achieve priority actions. However, the burden of detailed studies is being placed on Councils.

Many of the actions and priorities for Councils state what issues a Planning Proposal or study should address. Given the resources and time involved in the making of a Planning Proposal or study, consideration should be given to how the actions and priorities can be achieved through alternative policy and planning approaches.

Some actions and priorities are also dependent on the provision of State Government information prior to a study or Planning Proposal being drafted. Given the significant resources (staff, time and funding) required to fulfil the actions, the draft District Plan does not set out timeframes for the additional work to be undertaken by the GSC to enable Councils to achieve the actions.

- **Strategic, district and local centres**

The District Plan identifies a number of centres within the Bayside LGA, including Eastgardens-Maroubra Junction, a district centre and Green Square-Mascot, strategic centre. While these centres are split by LGA boundaries, they are nonetheless important in delivering important employment, housing and transport opportunities.

The identification of these centres offers a unique opportunity to work with adjoining Councils to better plan the activities within and between the centres as well as identify improved transport infrastructure. While this is positive, the District Plan must develop a framework that will facilitate cross-Council discussions as a priority.

The District Plan only provides a synopsis of the existing activities within an identified strategic or district centre. These provide little direction about the future character of these areas. The priorities and actions also provide little direction, merely highlighting heads of consideration that would form a part of any strategic analysis or Planning Proposal for such a location.

The District Plan should provide direction on the role these centres are expected to play. This is currently not part of the District Plan.

- **Employment and urban services land**

Bayside Council is one of many urban Councils that is currently experiencing significant housing growth. In many cases, this is at the expense of existing employment land. Pressure to convert existing employment lands for residential development is already high and is growing. While the District Plan proposes a precautionary approach to rezoning employment land, it does not provide Council with the necessary policy tools to take such an approach successfully.

The current language of the District Plan is broad enough to allow a proponent to meet the objectives, even if the proposal is contrary to the intent of the District Plan. In this regard, clearer direction and support from the GSC is needed to enable Council to implement the District Plan. As it stands, a precautionary approach alone is not enough.

While it is acknowledged that the nature of employment is changing, Council is left with little support to identify or foster emerging industries. Council requires a policy framework that supports the retention and growing existing employment areas, including smaller employment areas that are already suffering from development pressures.

The District Plan proposes to undertake further investigations that will allow for a better understanding of the current stock of employment and urban services land and the role it plays in the local, district and regional economy. This is welcomed and must be a priority for the GSC. The research should also result in the development of a policy framework that would equip Council with the tools necessary to make informed decisions that will maintain (where appropriate) and grow existing employment and urban services land.

- **Population growth and social and community infrastructure**

The District Plan acknowledges that with the forecast population growth, there will need to be an appropriate response to people's need for community and social infrastructure. However, there is a concern that the delivery of the necessary social and community infrastructure will continue to be reactionary. Such an outcome will only place increasing pressure on existing infrastructure.

Given the statistical analysis undertaken to reach the forecast population growth, a comprehensive framework for the planning and delivery of social and community infrastructure within the District must be developed. This should include a review of the developer contributions framework, which currently limits Council's ability to collect funds for land acquisition only to be used for a community facility.

The framework should also inform health and education service providers on the future provision of necessary services (this includes schools, hospitals, etc.) and when those services should be provided. This will allow for better planning and more importantly, better delivery of needed social and community infrastructure.

- **Housing choice**

The District Plan champions the preparation of local housing strategies as a key driver of informing housing need, choice and supply. Preparation of such documents is supported and as a minimum, these documents should identify where the demand is coming from and formulate an appropriate strategy to provide the necessary housing choice. It should also be stressed, that choice should not be shoehorned as something that supply alone can fix. Choice should also consider the availability of housing of varying size, type and location.

To achieve such an outcome, Councils require support from the NSW Government and GSC through the development of appropriate mechanisms that would allow Council to deliver on the District Plans objective of more housing choice.

As part of housing choice, the District Plan identifies five year dwelling targets for the District as well as specific Council areas. For Bayside, the five year dwelling target is 10,150, which is over 20% of the Central District's housing target. Based on this, Bayside can be considered a 'heavy lifter' when it comes to the delivery of homes in the Central District.

With increased development occurring, infrastructure (both hard and soft) is required to support the population growth. However, the District Plan does not offer any additional state and regional infrastructure to support the growth. While such an approach to strategic planning is not entirely foreign in NSW, the concern is that Councils will be left with the legacy of poor infrastructure investment in growth areas.

The District Plan is clear that capacity to accommodate more housing should be focused around existing and planned infrastructure. While this is positive, this is not enough. For instance, the Arncliffe and Banksia Priority Precincts are located on the Illawarra line. However, the line is currently over capacity in the morning peak. When it comes to existing infrastructure, the District Plan should be clear that additional housing capacity should be considered only where existing infrastructure has the capacity to accommodate the growth.

- **Housing affordability**

The District plan prescribes a target of 5% to 10% of new floor space to be allocated for affordable rental housing. The proposal to apply the target at the rezoning stage is a sound approach. This will allow its provision to be factored into the development equation, with developers being fully aware of their responsibility in the provision of such housing.

The commitment to independently assess the need and viability of affordable housing provision is a further step in the right direction. Any assessment of financial viability implications should be completely independent and applied consistently to all developments to ensure that any financial viability studies provided by developers present a realistic case.

To this end, this policy must be formalised through its inclusion in Local Environmental Plans as a standard control. Without such a mechanism, the application of an affordable housing policy could be compromised.

Further, to ensure that the policy is yielding its intended outcomes, monitoring the delivery of such housing on a yearly basis (as a minimum) is also recommended. A review of the

policy should also be undertaken 24 months after its introduction to identify any potential delivery issues, with the aim of increasing the targets.

- **Provision of open space and the Green and Blue Grids**

The District Plan recognises the benefits that availability of and access to good open space provides. With the population in Bayside set to increase substantially over the next five years and beyond, open space provision will become even more critical.

The cost of providing new open space is prohibitively expensive, particularly given the market. For example, Bayside Council identified an area within the Wolli Creek Precinct for open space. This will cost in the tens of millions of dollars to realise Council's vision for this open space. Bayside Council has also considered alternatives to the provision of more open space by focusing on the provision of better quality open space. However, the Independent Pricing and Regulatory Tribunal (IPART) have advised that Council can only charge developer contributions basic embellishment – not higher quality. This will become an increasing problem with Councils unable to consider alternatives to providing more open space, where its provision is not financially possible.

To this end, the Green and Blue Grid programs being driven by the GSC is critical to the growing population of Bayside and the wider District. The District Plan has identified a number of key green connections through Bayside Council, with the primary connections being north-south along existing corridors. While this is positive, they do not offer any new or substantially different approach to what Council is doing to ensure connection between open spaces.

To become a true networked grid the Central District Plan must introduce a new approach and the mechanisms to deliver the grid. This can include the consideration of incentives for the delivery of connections or mandated minimum standards that are supported by mechanisms that Councils can easily implement to achieve Green and Blue Grid connectivity.

- **Land and water contamination**

It is encouraging that the District Plan places a greater emphasis on sustainability principles. This is a welcomed approach from the GSC. However, there is concern that the sustainability priorities and actions do not adequately address the impact of land and water contamination within the Central District. In the past, this area has had some of Australia's most highly-intensive and polluting industries which has left a legacy of contaminated land, surface water and groundwater. In many cases the type, area and solution to contamination issues is unknown.

While the priority of protecting the City's waterways does touch on contamination, the level of impact contamination has on the Central District requires it to have a greater focus.

This legacy not only has an impact on the natural environment but also impacts on the types of activities and developments that can occur within certain areas of Central District and a significant cost to government or developers to rectify the issue.

The sustainability priorities for the Central District should include addressing the legacy of contamination in the Central District and acknowledging the assets of environmental value in the LGA and the need to protect and enhance these assets.

- **Benchmarking environmental outcomes**

Many of the actions in the District Plan identify opportunities for environmental enhancement (e.g. opportunities for shared golf courses and open spaces). However, they do not provide any measurable direction through setting or requiring benchmarks (eg water quality standards). This means these actions can be easily addressed without resulting in the changes required to protect the natural environment. Many of the actions also do not adequately address the key impacts on the natural environment of the Central District, including:

- Loss of natural areas to development including large infrastructure projects;
- Water quality contamination from historic land use practices;
- Inappropriate water quality and flow entering creeks and waterways;
- Erosion and sedimentation of waterways, estuaries and beaches; and
- Over-production of waste.

To this end, the need for sustainability actions to be strengthened to have a lasting impact in protecting and enhancing the environment is vital.

Conclusion

As with all LGAs within the Central District area, Bayside Council has an important role to review and help guide the future priorities and actions needed to secure a productive, liveable and sustainable future for Bayside. Whilst many aspect of the District Plan are encouraging, there are several aspects of the documents to which Council should draw the GSC's attention. An opportunity exists to influence the final form of the document to ensure that the District Plan considers all of the parts of the Central District, including the interests of Bayside Council.

As the exhibition period for the District Plan finishes on 31 March 2017, Council's meeting schedule does not align to allow Council to review the full submission before the exhibition closing date. It is therefore recommended that Council's submission be finalised by the General Manager and reported to Council for information at the first available opportunity.

Financial Implications

Not applicable

Community Engagement

Not required

Further details on the Draft Central District Plan can be found [here](#).

Attachments

Nil

Council Meeting

8/03/2017

Item No	9.2
Subject	Planning Legislation Updates to EP&A Act – Council Submission
Report by	Anne Qin, Urban Designer
File	09/40-02

Summary

The NSW Department of Planning and Environment (DP&E) has placed on public exhibition amendments to the *Environmental Planning and Assessment (EP&A) Act 1979*.

Council generally supports the proposed changes and believes that the amendments will address some existing shortfalls within the planning system and enable better planning outcomes. However, in reviewing the draft Bill, Council has identified a number of items that warrant comment including the following key issues:

- Mandatory public exhibition requirement for all applications irrespective of impact;
- Councils are required to conduct 5 yearly reviews of the Local Environmental Plan;
- Standardisation of councils' Development Control Plans;
- Insufficient timeframe provided for the investigation of compliance breaches;
- Lack of clarification for proposed changes to state infrastructure contributions and planning agreements; and
- Ambiguity in the application of design orientated strategies in the planning framework

The draft amendments are on public exhibition until 31 March 2017. Council officers have reviewed the draft Environmental Planning and Assessment Amendment Bill 2017 with the intention of making a submission. A submission will be prepared encompassing the issues addressed in this report.

Council Resolution

Minute 2017/026

Resolved by the Administrator:

- 1 That Council endorses the content of this report which will form the basis of Bayside Council's submission on the amendments to the *Environmental Planning and Assessment Act 1979*.
 - 2 That the General Manager be given delegation to finalise Council's submission.
-

Officer Recommendation

- 1 That Council endorses the content of this report which will form the basis of Bayside Council's submission on the amendments to the *Environmental Planning and Assessment Act 1979*.

- 2 That the General Manager be given delegation to finalise Council's submission.
-

Background

The DP&E released draft amendments to the EP&A Act, the main planning legislation for NSW, for public consultation on 10 January 2017. The proposed amendments are designed to enhance community confidence in the planning system, provide for more efficient and well-executed planning decisions, maximise the value of strategic planning, and improve community consultation.

Council officers are currently finalising a submission on the draft amendments to the EP&A Act based on the key issues discussed in this report.

Issues

Part 1 Enhancing community participation

- The draft Bill introduces a mandatory community participation plan. It is stated that to reduce duplication for councils, the proposed community participation plan does not need to be prepared separately if the criteria set out in the EP&A Act is addressed through Council's existing community engagement strategy, which is required by the *Local Government Act 1993*.

Comment: Council is supportive of mandating community consultation. The former City of Botany Bay and Rockdale Councils have community engagement policies/strategies that can be reviewed and consolidated. The preparation of a single community participation plan would be appropriate as part of this process.

- The amended EP&A Act will require all local development applications to be exhibited for a minimum of 14 days whereas councils currently have some discretion over the exhibition duration of applications.

Comment: While acknowledging the term "minimum of 14 days", Council should retain its existing discretion to determine public exhibition requirements based on the scale and potential impact of proposals to ensure the efficient processing of development applications.

Part 2 Completing the strategic planning framework

2.1 Strategic planning at the local level

- Councils are required to develop local strategic planning statements to help the community understand the purpose and aims of planning controls in plain English.

Comment: Council supports a more transparent and comprehensible planning system. Aligning the statement to the existing community strategic plans will also justify existing planning controls and enhance enforcement.

2.2 Keeping local environmental plans up to date

- Councils will be required to review their local environmental plans (LEPs) against set criteria at least every 5 years.

Comment: Council is supportive of regular LEP updates to ensure development reflects the needs of the community. However, it should be noted that some councils may not have the significant resources required to regularly review LEPs, particularly when studies are required to support changes to an LEP.

2.3 More consistent development control plans

- The DP&E propose the standardisation of development control plans (DCPs) across councils, particularly in regards to their format and structure.

Comment: Council will request to be involved in the consultation process in developing a standard format to ensure the consistency of DCPs but also flexibility in local subject matter.

Part 3 Better processes for local development

3.1 Early consultation with neighbours

- The amendments provide the EP&A Act with the power to make regulations concerning community consultation prior to the lodgement of a development application or modification application. Before making any such regulation, the DP&E will conduct further research into current barriers to early consultation and possible options and incentives to overcome them.

Comment: It is recommended that the DP&E develop a model protocol for applicant-initiated community consultation programs for adoption or adaptation by councils. In the past Bayside Council has experienced some applicant-initiated consultation programs that have acted more as a promotional campaign for a future development proposal rather than an objective attempt to seek community feedback.

3.2 Efficient approvals and advice from NSW agencies

- The amendment intends to grant reserve power for the Secretary of the DP&E to give advice, concurrence or general terms of approval on behalf of another agency.

Comment: The introduction of this “step-in” function of the Secretary to minimise delays and resolve conflicts amongst government agencies is generally supported. It is requested that councils be consulted in the development of this process.

- An electronic system is being developed to set up a centralised digital platform to coordinate agency inputs.

Comment: The initiative of digitisation is supported. However, present issues with lack of transparency in administrative processes, delayed timeframes and non-standardised referral procedures across agencies will need to be addressed by the DP&E.

- The Summary of Proposals document (pages 18-19) refers to the “performance improvement approach” to manage agency inputs, using the NSW Food Authority’s Food Regulation Partnership (FRP) program as an example.

Comment: It is unclear as to how this program relates to the referral and concurrence processes, especially in terms of the administrative structure amongst stakeholders and the role of councils. Further information is required.

3.3 Preventing the misuse of modifications

- The proposed amendments will prevent planning authorities from approving modifications to works that have already been executed, other than in limited circumstances.

Comment: This is supported as it would serve as a deterrent to developers undertaking works that are not consistent with development consents and then seeking retrospective approval through Section 96 applications.

- Council will be required to give reasons for issuing development consents or approving a modification to the consent. However, in practice, reasons and rationales for approving or refusing developments are already stated in a development assessment report.

Comment: Council is supportive of this initiative but without clarification for where this explanation is to be documented, the requirement is likely to result in a duplication of information.

3.4 Improving the complying development pathway

- The amendment introduces a deferred commencement of a complying development certificate (CDC) in limited circumstances to resolve specific administrative issues, such as the registration of a new subdivision or payment of a levy prior to a certificate becoming operational.

Comment: To minimise risks of non-compliance or inappropriate CDCs being issued, Council would recommend that “deferred commencement” should not to be used to rectify design issues or deviate from the standards, but only be limited (and defined) to relate to administrative matters.

- A 7-day stop work period is introduced to investigate alleged breaches of development standards for CDCs.

Comment: Council is supportive of the initiative but a 7-day period is too restrictive for detailed investigation work. Consideration should be given to increasing the period to allow councils to thoroughly investigate and prevent work being continued or completed incorrectly. Further consideration and consultation with Councils should be undertaken to consider a more realistic timeframe.

- A levy is imposed on applicants lodging a CDC and remitted to councils.

Comment: Council welcomes this levy as it will support Council in its role of investigating and enforcing compliance with the planning legislation by reimbursing costs incurred.

- It is proposed that a non-complying CDC can be declared invalid by the Court if detected within 3 months after the certificate’s issue.

Comment: If a CDC is investigated and believed to be unauthorised to be issued then there should be no restriction on the timeframe in which the matter can be challenged in Court or at a minimum, a longer timeframe should be provided.

- The draft Bill proposes the application of special infrastructure contributions and planning agreements to complying developments.

Comment: Clarification is required to identify the government authority (ie State Government or local councils) that will be entering into these agreements when it is part of the complying development process.

Part 4 Better processes for State significant development

4.1 Clarifying the regulation of major projects

- The amendments propose a mechanism of 'transferrable' conditions where consent conditions can be superseded by conditions subsequently imposed under other regulatory approvals or licences. The original consent conditions will lapse as substantially equivalent conditions are included in the other regulatory instruments.

Comment: Whilst this process is supported, high impact developments will need to ensure compliance with updated regulations to ensure transparency. Councils and applicants need to be regularly and effectively notified when amendments to conditions are made.

- The amendments introduce conditions of consent that require financial securities to fund the decommissioning or rehabilitation of sites.

Comment: Council supports the amendment to ensure developers are environmentally responsible, reducing the financial burden on councils.

4.2 Improved environmental impact assessment

- Draft guidelines on how to improve the quality of environmental impact assessments are currently being prepared by the DP&E and will be released for public consultation.

Comment: Noted.

4.3 Discontinuing Part 3A

- The draft Bill implements the complete repeal of Part 3A transitional arrangements to transfer existing Part 3A State significant projects to be categorised as State Significant Development (SSD) or State Significant Infrastructure (SSI).

Comment: It should be ensured that no amendments are made to Council's ability to be consulted on these projects.

Part 5 Facilitating infrastructure delivery

- The amendments extend the current ability of environmental planning instruments to require concurrence or notification of public authorities for activities within future infrastructure corridors. It is understood that these requirements will ensure inappropriate development does not occur within a corridor, preventing problems when it is time to plan and construct any future infrastructure. However, obtaining concurrence would add significant delay to Council works that do not impede the future development of land as an infrastructure corridor.

Comment: To minimise delays, Council recommends that concurrence only be required for activities within an infrastructure corridor if the activity will result in:

- a) Erection of a permanent structure; or
- b) Will significantly alter the natural landscape; or

- c) Installation of essential services eg. telecommunication infrastructure.

Part 6 Fair and consistent planning agreements

- The draft Bill allows the Minister to make a direction about the methodology underpinning planning agreements. This will impose an arbitrary limit on the extent of public benefits that are to be delivered through a planning agreement. As planning agreements are already voluntarily entered into between the developer and the planning authority, it is not clear what will be achieved by endowing the Minister with the power to become an additional party in the negotiation process.

Comment: Until further clarification is given, Council does not support the additional power of the Minister to determine the direction of a planning agreement. It will unnecessarily increase the complexity and extend the time required to determine a planning agreement.

- The DP&E is revising the conditions for Special Infrastructure Contributions (SICs) in high growth areas. The SIC is directed by the Minister and collected by the State Government. No transparency is provided regarding how much the SIC will be, though it is estimated to be in the order of \$10,000 to \$20,000 per lot in metropolitan Sydney and is without a maximum cap like the one imposed on Section 94 contributions.

Comment: Council cannot support the implementation of the SIC without further clarification on the community infrastructure that will be delivered with this funding.

Part 7 Confidence in decision making

7.1 Better local decisions

- The Bill proposes to make an updated set of provisions to standardise the function and establishment of Independent Hearing and Assessment Panels (IHAPs). IHAPs will be renamed 'local planning panels'. Councils will continue to have the option of establishing a local planning panel and whether the panel will assume the function of a council as a consent authority. Bayside Council is in the process of establishing an IHAP and once elections are held for the new councillors in September 2017, the continuation of these established IHAPs will ensure councillors focus on strategic policy matters for the local government area.

Comment: Council supports the amendments to make local planning panels a regular feature of the planning system across local government areas with the suggestion to mandate planning panels for all councils. IHAPs should perform the determination roles undertaken by a council, ensuring decisions are made by qualified and independent persons, strengthening public confidence, increasing transparency and objectivity, depoliticising the development assessment process and reducing external influences.

7.2 Refreshed thresholds for regional development

- The threshold for regionally significant development requiring determination by a planning panel (Sydney Planning Panel or Joint Regional Planning Panel) is proposed to be increased from \$20 million to \$30 million.

Comment: Council should anticipate that more major applications will be determined locally following the amendments.

7.3 Strengthening decisions at the State significant level

- The Planning and Assessment Commission will be renamed the Independent Planning Commission. The Commission will no longer have a statutory function to review development proposals but instead guide assessments undertaken by the DP&E. The intention is to reduce the time taken for processing State significant developments.

Comment: Noted.

7.4 Managing conflicts for panels

- It is proposed that a model code of conduct will be developed for incorporation into the existing codes of conduct adopted by the Sydney district and regional planning panels and local planning panels. The model code will be adopted by the EP&A Regulation.

Comment: Council supports this initiative in principle.

7.5 Review of decisions

- The draft Bill proposes to expand the scope of Council's internal review of consents under Section 82A to permit applicants to request an internal review of a council's decision for integrated development provided the relevant agencies are involved in the review.

Comment: No objection is raised to the proposed changes.

Part 8 Clearer building provisions

- A new clause pertaining to the validity of certificates is introduced to address the vast inconsistencies between approved construction certificates and the original development consent. Under the new clause, the Court may declare that a certificate is invalid if inconsistencies with the development consent are detected within 3 months after the certificate's issue.

Comment: If a certificate is found to be inconsistent with the development consent, there should be no restriction on the timeframe in which the matter can be challenged in Court or at the least, there needs to be a longer timeframe provided.

- The draft Bill introduces a mandatory owners building manual which is to be prepared and provided to the owner of the building. The building manual includes matters required to be checked for ongoing compliance, for example fire safety systems that must be maintained.

Comment: It is unclear who will be responsible for the preparation, review and enforcement of the building manual. If it is council's responsibility, Council currently lacks the resources to continually monitor the maintenance of the manual and therefore disagrees with its implementation in the Act.

Part 9 Elevating the role of design

- The draft Bill introduces a new objective "to promote good design in the built environment". Whilst "good design" is recognised as a necessity in achieving desirable planning outcomes, the term is too broad-brush to correlate with any existing planning framework.

Comment: The terminology should be further developed for integration into the Standard Instrument—Principal Local Environmental Plan as a compulsory provision to reinforce the significance of “good design” in a planning context.

- The Office of the Government Architect is preparing a design-led planning strategy to assist planning system users to achieve well-designed places.

Comment: Whilst Council is generally supportive of this initiative, the application and enforceability of the strategy remains unclear. Clarification is required on whether councils will have to amend existing planning policies to integrate the strategy like the SEPP 65 Apartment Design Guide or if the strategy will only serve as a supplementary guide for “good design” practices. It is crucial that the directions contained in this design-led strategy do not conflict with or duplicate other planning strategies and policies.

Part 10 Enhancing the enforcement toolkit

- It is proposed to give the DP&E and councils the ability to enter into enforceable undertakings with holders of a development consent to hold offenders accountable for breaching development consent.

Comment: The initiative is supported in general but clarification is sought, particularly in regards to an outline of the enforcement process, circumstances in which it can be used, how it fits within current compliance action and the timeframe for the undertaking to be executed.

Conclusion

Council recognises the potential of the amendments in delivering better planning outcomes and is generally supportive of the intent. However, there are some key issues as those raised above that require further clarification from the DP&E.

The draft amendments are on public exhibition until 31 March 2017. A Council submission on the draft amendments will be prepared encompassing the issues raised in this report.

Financial Implications

Not applicable

Community Engagement

Not required.

The draft amendments to the *EP&A Act* are on public exhibition until 31 March 2017. The following documents are on exhibition:

- Summary of Proposals
- Draft Bill
- A plain English guide to the Bill

- A report on stakeholder feedback to date

All documents are available for download at www.planning.nsw.gov.au/Policy-and-Legislation/Legislative-Updates

Attachments

Nil

Council Meeting

8/03/2017

Item No	9.3
Property	24 Hambly Street, Botany NSW 2019
Proposal	Alterations and additions to the existing semi-detached dwelling, including partial demolition of the dwelling, internal reconfiguration and open plan living on ground floor, new deck with BBQ area and privacy screen, first floor addition, new 1.8 metres sliding gate facing Queen Street, new lock up shed and a carport adjoining the northern boundary to replace the existing garage
Cost of Development	\$331,100.00
Report by	Olivia Yana, Development Assessment Planner
Application No	DA-16/145

Council Resolution

Minute 2017/027

Resolved by the Administrator:

- 1 That Council support the variation to the maximum Floor Space Ratio contained in Clause 4.4A(3)(d) of Botany Bay Local Environmental Plan 2013 (BBLEP 2013) in accordance with the Clause 4.6 justification submitted by the applicant.
 - 2 That the Development Application DA-16/145 for alterations and additions to the existing semi-detached dwelling at 24 Hambly Street Botany be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
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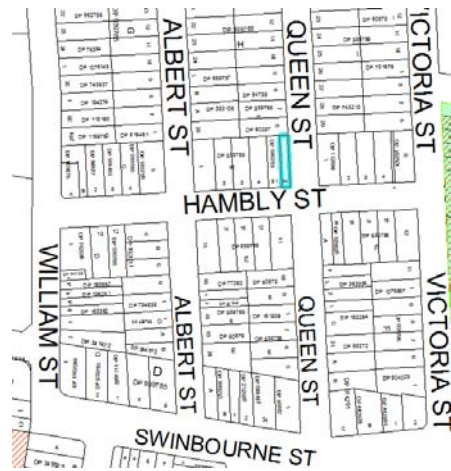
Officer Recommendation

- 1 That Council support the variation to the maximum Floor Space Ratio contained in Clause 4.4A(3)(d) of Botany Bay Local Environmental Plan 2013 (BBLEP 2013) in accordance with the Clause 4.6 justification submitted by the applicant.
 - 2 That the Development Application DA-16/145 for alterations and additions to the existing semi-detached dwelling at 24 Hambly Street Botany be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
-

Attachments

Planning Assessment Report
Site Plan – Roof
House Elevations
Proposed Carport Elevation

Location Plan



BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	2016/145
Date of Receipt:	18 August 2016
Property:	24 Hambly Street, Botany NSW 2019
Owner:	B J Lea and S Hudson-Lea
Applicant:	John King c/- Design King Company
Proposal:	Alterations and additions to the existing semi-detached dwelling, including partial demolition of the dwelling, internal reconfiguration and open plan living on ground floor, new deck with BBQ area and privacy screen, first floor addition, new 1.8 metres sliding gate facing Queen Street, new lock up shed and a carport adjoining the northern boundary to replace the existing garage
Value:	\$331,100.00
No. of submissions:	Nil
Author:	Olivia Yana, Development Assessment Planner
Date of Report:	24 January 2017

Key Issues

The former City of Botany Bay received Development Application No. 16/145 on 18 August 2016 seeking consent for alterations and additions to the existing semi-detached dwelling, including partial demolition of the dwelling, internal reconfiguration and open plan living on ground floor, new deck with BBQ area and privacy screen, first floor addition, new 1.8 metres sliding gate facing Queen Street, new lock up shed and demolition of the existing garage to provide a hardstand car space at the rear at 24 Hambly Street, Botany.

The application was placed on public exhibition for a fourteen (14) day period from 7 September to 21 September 2016. No objections were received.

On 14 September 2016, Council requested the applicant to provide a Clause 4.6 variation to the FSR, clarify works on the party wall and fencing, reduce size of proposed lock up shed, and provide details of planting, a roof plan and colours and finishes schedule. This information was provided for consideration on 5 October and 7 October 2016, including replacing the garage with a carport instead of a hardstand car space.

The application was then re-notified for another fourteen (14) days from 26 October to 9 November 2016. No objections were received as a result of this notification.

The primary issue in the proposed development is the non-compliance in the floor space ratio (FSR). A FSR of 0.5:1 is applicable for semi-detached dwelling houses within the Area 3 zone. The development proposes FSR of 0.66:1, which is a deviation of 38.9² or 33.3% to the standard. The applicant has submitted a Clause 4.6 that satisfactorily addressed the LEP requirements. The proposed development will be consistent with the scale and bulk of two storey semi-detached dwellings on Hambly Street and its surroundings. The proposed

development is consistent with the desired future character of Botany Character Precinct. Therefore in this instance the FSR is considered acceptable.

The proposed ground floor extension, first floor addition and rear outbuilding, including carport and lock up shed do not comply with Council's DCP requirements for setbacks. The rear extension on the ground floor and first floor addition do not comply with the secondary street setback requirement, as the narrowness of the frontage width being 6.15 metres will not result in a good internal amenity by strictly complying with the required side setbacks. The proposed lock up shed and carport will replace the existing dilapidated garage situated on the boundary that has been identified containing asbestos material on site, and in this instance, the variation to the DCP requirements for setbacks is supportable.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval, subject to conditions of consent.

Recommendation

1. That Council support the variation to the maximum Floor Space Ratio contained in Clause 4.4A(3)(d) of Botany Bay Local Environmental Plan 2013 (BBLEP 2013) in accordance with the Clause 4.6 justification submitted by the applicant.
2. That the Development Application DA-16/145 for alterations and additions to the existing semi-detached dwelling at 24 Hambly Street Botany be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

Background

History

There is no recent development history for the site. It has been used as a dwelling house for many years with no record for the approval of the existing dwelling.

Development Application No. 16/145 was received on 18 August 2016 seeking consent for alterations and additions to the existing semi-detached dwelling, including partial demolition of the dwelling, internal reconfiguration and open plan living on ground floor, new deck with BBQ area and privacy screen, first floor addition, new 1.8 metres sliding gate facing Queen Street, new lock up shed and demolition of the existing garage to provide a hardstand car space at the rear. The application was placed on public exhibition for a fourteen (14) day period from 7 September to 21 September 2016. No objections were received.

Site inspection to the subject site at No. 24 Hambly Street was carried out on 14 September 2016.

On 14 September 2016, Council requested that the applicant provide a Clause 4.6 variation of the FSR, clarify works on the party wall and fencing, reduce size of proposed lock up shed, and provide details of planting, a roof plan and colours and finishes schedule. This information was provided for consideration on 5 October and 7 October 2016, including replacing the garage with a carport instead of a hardstand car space. The application was

then re-notified for another fourteen (14) days from 26 October to 9 November 2016. No objections were received as a result of this notification.

Proposal

The development application, in its amended form, seeks consent for alterations and additions to the existing semi-detached dwelling, including partial demolition of the dwelling, internal reconfiguration and open plan living on ground floor, new deck with BBQ area and privacy screen, first floor addition, new 1.8 metres sliding gate facing Queen Street, new lock up shed and a carport adjoining the northern boundary to replace the existing garage.

The specifics of the proposal are as follows:

Demolition and Site Clearing

- Partial demolition of the existing rear section of the dwelling, removal of asbestos from wall cladding and demolition of dilapidated asbestos garage facing Queen Street.

Ground Floor

- Replacing timber cladding over existing wall after removal of asbestos;
- Extending the rear ground floor to the northern side by approximately 1.42 metres;
- Internal reconfiguration to relocate bath and laundry, and provide an open plan living for kitchen/dining/living area;
- New covered rear deck with skylight and BBQ area;
- New 1.8 metres gate facing Queen Street;
- New lock up shed and pitched carport to the height of 3 metres adjoining the rear boundary; and
- Tree planting adjoining to the western boundary at the rear.

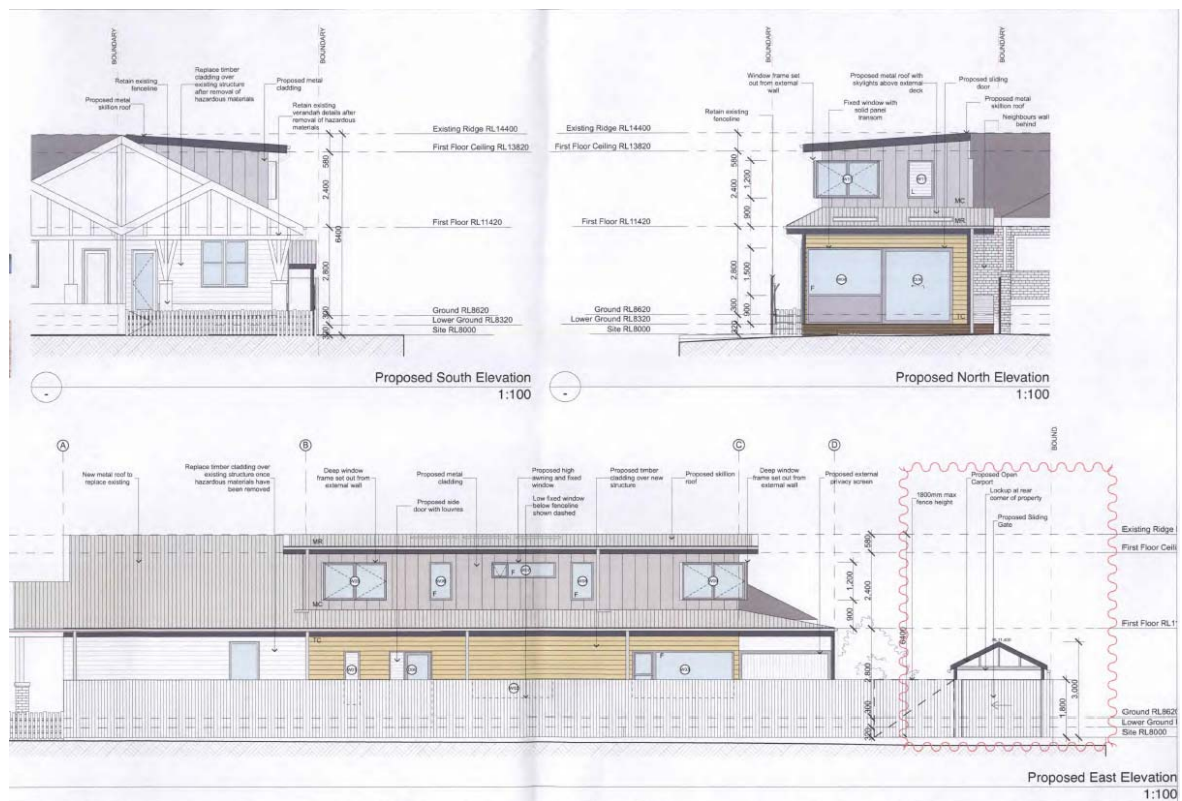
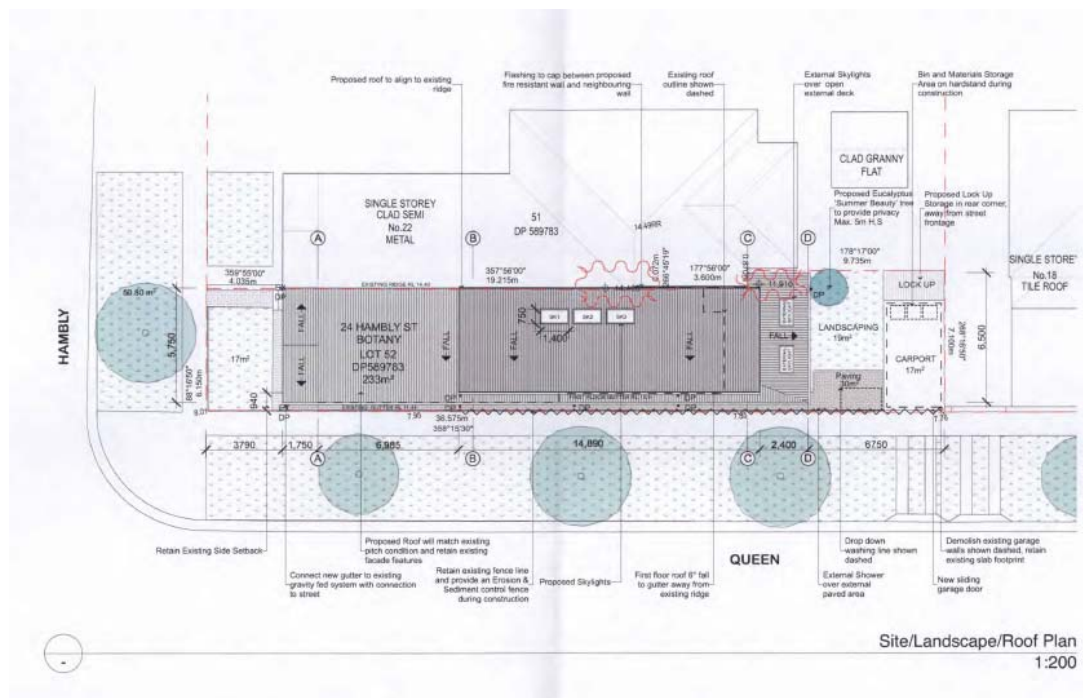
First Floor

- Construction of two (2) additional bedrooms (one with ensuite).

Materials of Construction

The proposed development will be constructed using the following materials and colours:

- MR colorbond roof;
- Monument and round colorbond gutter and downpipes to match;
- Black anodised aluminium frame windows and sliding doors;
- MC zinc cladding for the first floor addition wall; and
- TC horizontal timber cladding for the ground floor wall.



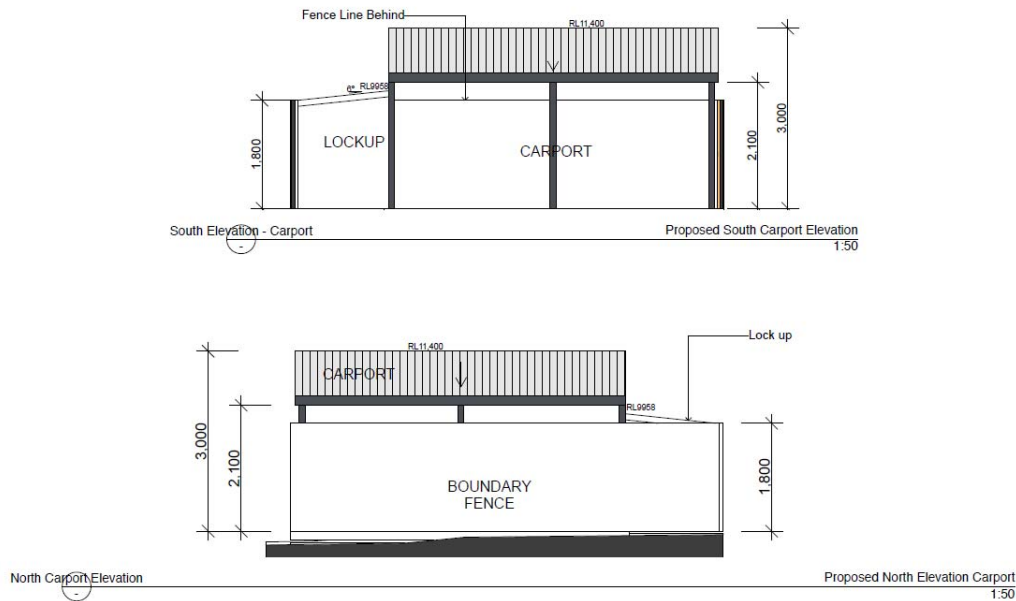


Figure 3. Proposed Carport Elevation

Site Description

The site is legally known as Lots 52 in DP 589783. The subject site is located on the northern side of Hambly Street between Queen Street to the east, Albert Street to the west and Morgan Street to the north. The site has north-to-south orientation with south being the front (facing Hambly Street) and south being the rear of the site. The site is located in the R2 Low Density Residential zone.

The subject site is a corner block with rectangular in shape having a total area of 233m², frontage width of 6.15 metres and secondary frontage of 7.1 metres on the eastern side. The site is relatively flat with gentle slope down towards Queen Street.

The site currently has a single storey fibro semi-detached dwelling with terracotta tiled roof. The rear of the site consists of a fibro garage on the north-eastern corner accessed from Queen Street. The pair of semi-detached dwelling at 22 Hambly Street is situated to the west with improvements including a front attached carport facing Hambly Street and detached studio at the rear north-western corner. To the north is 18 Queen Street, which is a single storey brick detached dwelling house with a swimming pool at the rear and a garage along its southern boundary. Surrounding development consists of single storey and two storey detached and semi-detached dwelling houses within R2 Low Density Residential zone.

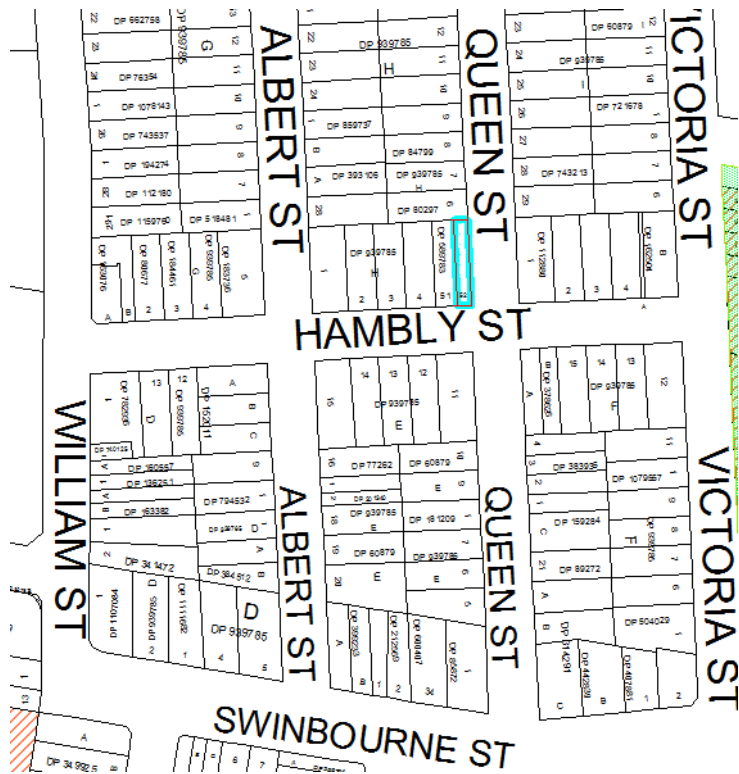


Figure 6. Locality Plan



Figure 7. Aerial Map of subject site



Figure 8. Front elevation of semi-detached dwellings 22 (L) and 24 Hambly Street (R)

Referrals

The development application was referred to Council's Health Officer, Building Surveyor, and Development Engineer for comments. No objections provided subject to appropriate conditions imposed on the development consent.

Statutory Considerations

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

S.79C(1) - Matters for Consideration – General

S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate Nos. A254917 dated 13 July 2016 and received by Council on 18 August 2016 committing to environmental sustainable measures.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the development application, along with the requirements of Part 3K - Contamination of the Botany Bay Development Control Plan 2013. The likelihood of encountering contaminated soils on the subject site is considered to be extremely low given the following:

1. The site appears to have been continuously used for residential purposes;
2. The adjoining and adjacent properties are currently used for residential purposes;
3. The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in SEPP 55, in particular industrial, agricultural or defence uses.

On this basis, the site is considered suitable in its present state for the proposed residential development. No further investigations of contamination are considered necessary.

Botany Bay Local Environmental Plan 2013

Botany Bay Local Environmental Plan 2013 has been considered in the assessment of the Development Application and the following information is provided:

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Land use Zone	Yes	The site is zoned R2 Low Density Residential zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use as a semi-detached dwelling house is permissible with consent under the Botany Bay Local Environmental Plan 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the objectives of the R2 zone which are: <ul style="list-style-type: none"> • <i>To provide for the housing needs of the community within a low density residential environment;</i> • <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents;</i> • <i>To encourage development that promotes walking and cycling.</i>
What is the height of the building?	-	A maximum height of 9 metres applies to the subject site.
Does the height of the building	Yes	Proposed height = 6.4 metres from the

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
comply with the maximum building height?		NGL. The maximum height of the dwelling complies with Council's requirements under the Botany Bay Local Environmental Plan 2013.
What is the proposed Floor Space Ratio? Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?	- No - Refer to Note 1 below	The maximum Floor Space Ratio requirement is 0.5:1. Proposed Gross Floor Area: 155.4m ² Proposed Floor Space Ratio: 0.66:1 The Floor Space Ratio does not comply with Council's requirements under the Botany Bay Local Environmental Plan 2013. A Clause 4.6 variation to the FSR Standard has been submitted as part of the proposal.
Is the site within land marked "Area 3" on the Floor Space Ratio Map? If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?	No - Refer to Note 1 below	The site is located in the 'Area 3' zone. The development does not comply with the maximum Floor Space Ratio Requirement under the Botany Bay Local Environmental Plan 2013 for semi-detached dwellings. Discussion relating to the exceedance in FSR is provided below.
Is the land affected by road widening?	N/A	The subject site is not affected by road widening.
The following provisions in Part 6 of Botany Bay Local Environmental Plan apply– <ul style="list-style-type: none"> 6.1 – Acid Sulfate Soils 6.2 – Earthworks 6.3 – Stormwater Management 	<p>Yes</p> <p>Yes</p> <p>Yes, subject to condition</p>	<p>Class 4 ASS- The likely disruption or effect on the soil conditions, in addition to possible site contamination has been appropriately considered and is found to be acceptable in this instance. As there is no significant excavation, an Acid Sulfate Soil Management Plan is not warranted.</p> <p>The proposal does not involve any significant cut or fill.</p> <p>Council's Development Engineer has no objection to the proposed development subject to condition of consent ensuring</p>

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
<ul style="list-style-type: none"> 6.9 – Development in areas subject to aircraft noise 	N/A	<p>that the existing drainage system is to be certified and fully operational.</p> <p>The site is not located within ANEF affected area. No acoustical measures required.</p>

Note 1 – Variation to the Floor Space Ratio Standard

The site is located within 'Area 3' on the FSR map and therefore Clause 4.4A of the BBLEP 2013 applies to the proposal. The objectives of this clause are as follows:

- a) *To ensure that the bulk and scale of development is compatible with the character of the locality; and*
- b) *To promote good residential amenity.*

Pursuant to Clause 4.4A(3)(d), the proposal is defined as a 'semi-detached dwelling' and not defined as a 'dwelling house' or 'multi-dwelling' housing, and as such would fall under the category of 'all other development for the purpose of residential accommodation'. The maximum permitted FSR for a 'semi-detached dwelling' is therefore limited to 0.5:1, instead of having a sliding scale FSR that is determined by the site area in Clause 4.4(3)(a). The permissible FSR for a dwelling house with site area between 200 – 250m² is 0.8:1.

The proposal is for alterations and additions to the existing semi-detached dwelling. The following table demonstrates the relevant lot size, the proposed gross floor area and floor space ratio:

Proposed	24 Hambly Street)
Site Area	233m ²
GFA	155.4m ²
FSR	0.66:1
Variation to Standard	38.9m ² or 33.3%

The applicant has provided a Clause 4.6 variation to the floor space ratio development standard which provides justification for the exceedance in gross floor area. Excerpts from the applicant's variation are outlined as follows:

Compliance with the development standard is unreasonable or unnecessary:

"Our response is that the adjoining semi detached dwelling and many in the vicinity are in line with our proposal of 0.7:1 and in the longer term the proposed alterations make this semi detached dwelling a viable long-term family home without any negative environmental impacts. The design has been carefully articulated and designed to ensure the bulk, scale and building form does not impact the existing and original cottage front. The materials have also been carefully chosen to ensure that the contemporary addition is sympathetic to the scale and detail of the original. It is of a scale consistent and compatible with the neighbouring property and does not effect the enjoyment and amenity of that or any other property or public space."

There are sufficient environmental planning grounds to justify contravening the development standard:

“The detailing and execution have been developed to add to the existing urban context that is transformational in nature as gentrification and land costs push for the intensification of land-use and higher densities. This is project that has been carefully considered and with its corner location all efforts have been made to ensure that there is no loss on amenity to adjoining properties or the public domain. Notwithstanding that semi detached dwellings are defined differently the proposed 0.7:1 FSR is well within the Maximum floor space ratios set-out in 4.4 (A) 0.8:1 of the BBLEP 2013 and for consistency I suggest this anomaly needs to be addressed as development pressure on these properties rightly challenges this Development Control. The economic growth of the Botany Bay region is enhanced by a commitment on the part of the architects and owner’s of this property to provide a high quality and high amenity project, ensuring a higher standard of execution and longer-term value of the property and general area. I reiterate it is the personal investment people make into these types of developments that brings vigour, commitment and community back into what were until very recently areas of decline and decay.”

Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the FSR development standard is not expressly excluded from this Clause (CI 4.6(2)). The applicant has provided a written request justifying the contravention of the development standard pursuant to Clause 4.6(3) of BBLEP 2013, which is considered below. The matters for consideration pursuant to Clause 4.6(4) and (5) are also considered below. Clause 4.6 (6), (7) and (8) are not relevant to the current proposal.

In *Wehbe v Pittwater Council* [2007] NSW LEC 827 (*Wehbe*), the Land and Environment Court set out the following 5 different ways in which an objection to a development standard may be well founded:

1. *The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*), the Court established that the construction of Clause 4.6 is such that it is not sufficient for the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, as required by Clause 4.6(3)(b), or for the consent authority to be satisfied that the proposed development is consistent with the public interest

because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as required by Clause 4.6(4)(a)(ii). The Court outlines, that Clause 4.6 requires that in addition to the requirements listed above, the applicant must also establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as is required by Clause 4.6(3)(a). This may involve reference to reasons 2-5 outlined within *Wehbe*.

The requirements of 4.6(3)(a), 4.6(3)(b), and 4.6(4)(a)(ii) are each addressed separately below:

Cl. 4.6(3)(a): Is the development standard unreasonable or unnecessary in the circumstances of the case?

Officer's Comment:

The applicant requested a floor space ratio exceedance in a Clause 4.6 variation and stated that the design has been carefully articulated and designed to ensure the bulk, scale and form so that it does not impact on the integrity of the existing and original cottage, and is sympathetic to the built form of the existing streetscape. The proposed size and scale of the development is compatible with the permitted bulk and scale of the area and the future desired character of the Botany Character Precinct having a low density residential nature. The proposed two storey semi-detached dwelling will maintain an appropriate visual character by complying with the height and scale of two storey dwelling houses along Hambly Street and its vicinity, whilst providing an appropriate correlation of the extent of the development on the site. Full compliance with the development standard would constrain any future development to the site considering that the additional numerical non-compliance to the FSR is as a result of the proposed first floor addition, which is otherwise permitted. The development standard is therefore unreasonable in this circumstance of case.

Cl. 4.6(3)(b): Are there sufficient environmental planning grounds to justify contravening the development standard?

Officer's Comment:

Non-compliance with floor space does not contribute to the dwelling being of unreasonable bulk and scale, particularly as it does not exceed the maximum floor space for a dwelling house in Area 3 as stipulated by Clause 4.4A(3)(a) of BBLEP 2013. Similarly there is a recently approved semi-detached dwellings development at 17 and 19 Hambly Street under DA-15/49 and DA-14/312 respectively, which was subject to a maximum FSR of 0.65:1 for lot between 251 - 300m²; this being a 29.9% variation to the development standard. The proposal will create an appropriate built form, which is consistent with the surrounding low density residential developments with the proposed height not exceeding the height of two storey dwellings on Hambly Street. The dwellings are articulated at the front, side and rear elevations, thereby visible bulk is minimised and an appropriate visual relationship along the streetscape and the surrounding properties is maintained.

Cl. 4.6(4)(a)(ii): Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

The following matters pursuant to Clause 4.6 also considered:

- Objectives of Clause 4.6;
- Objectives of the Floor Space Ratio Standard;

- Objectives of the R2 Low Density Residential zone;
- Public Interest and public benefit of maintaining the development standard.

Objectives of Clause 4.6

The objectives of Clause 4.6 of the Botany Bay Local Environmental Plan 2013 are:

- To provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- To achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Officer's Comments:

Notwithstanding the numerical non-compliance, the proposal satisfies the objectives of Clause 4.6 and those of the floor space ratio standard as it will facilitate a two storey semi-detached dwelling house within the R2 Low Density Residential zone that generally meets the required desired future character of the Botany Character Precinct. The reasons outlined in the applicants Clause 4.6 variation are well founded and flexibility can be applied as the proposal achieves a better outcome for the intensification of the land use at the site, whilst minimising the impact of the development on the adjoining properties and on the existing surrounding development.

Objectives of the Floor Space Ratio Standard

The objectives of the Floor Space Ratio Standard are:

- to establish standards for the maximum development density and intensity of land use,*
- to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
- to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*
- to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,*
- to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- to facilitate development that contributes to the economic growth of Botany Bay.*

Officer's Comments:

The proposed FSR is consistent with the maximum FSR permissible for a dwelling house on a lot between 200m² - 250m². The proposed semi-detached dwelling is of a similar bulk and scale of surrounding existing two storey dwelling houses on Hambly Street, and the recently approved semi-detached dwellings at 17 and 19 Hambly Street. The proposal maintains an appropriate visual relationship with the neighbouring properties and the existing and future character of the area. The proposal is not considered to create adverse impacts on the privacy and views currently experienced by the adjoining sites and the size of the dwellings is substantively the same as would be permitted for single detached dwellings on the proposed allotments.

Objectives of the zone

The objectives of the R2 Low Density Residential zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment;*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents;*
- *To encourage development that promotes walking and cycling.*

Officer's Comments:

The proposed semi-detached dwelling house is a permissible use within the R2 Low Density Residential zone and is in keeping and is consistent with the zone objectives.

Public Interest and Public Benefit

The proposed variation to the floor space ratio standard will be in the public interest as it will facilitate the extension and first floor addition to an existing semi-detached dwelling on the subject site, without adverse impact on the streetscape and the locality. The proposal is consistent with the desired future character of sites along Hambly Street and the Botany Character Precinct as prescribed within Part 8- Character Precinct and Part 4A- Dwelling Houses of the Botany Bay Development Control Plan 2013.

Summary

The Clause 4.6 exception to the height of building control has been assessed in accordance with relevant case law, being the principles of *Wehbe v Pittwater Council* [2007] NSW LEC 827 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*). The proposal is consistent with the underlying objectives of the standard identified. The proposed development has been assessed against the Botany Bay Local Environmental Plan 2013 and Botany Bay Development Control Plan 2013 control, and the proposal is generally consistent with their requirements.

It has been established that the proposed development is appropriate and strict adherence to the development standard in this instance is unreasonable and unnecessary. Maintaining and enforcing the development standard in this case is viewed as unreasonable.

The applicant's Clause 4.6 variation is well-founded and the departure in the FSR is compatible with the existing residential development and recently approved development within the locality. On this basis, it is recommended that the development standard relating to the maximum FSR for the site pursuant to Clause 4.4A of the Botany Bay Local Environmental Plan 2013 should be varied in the circumstances as discussed above.

S.79C(1)(a)(ii) - Provisions of any Draft EPI's

There are no current Draft EPIs applicable to this development

S79C(1)(a)(iii) - Provisions of any Development Control Plan

Botany Bay Development Control Plan 2013

The development proposal has been assessed against the controls contained in the Botany Bay Development Control Plan 2013 as follows:

Part 3A – Parking & Access

Part	Control	Proposed	Complies
3A.2. Parking Provisions of Specific Uses	C2 Semi-detached dwelling house = 1 space	The proposal will maintain existing one car space on site.	Yes

Part 3L- Landscaping and Tree Management

The development proposes an adequate amount of landscaping with areas having an approximate total of 36m² or 15.4%. The applicant has proposed to plant one tree Eucalyptus ‘Summer Beauty’ adjoining to the western boundary at the rear to provide privacy between the adjoining properties.

Part 3N- Waste Minimisation & Management

Waste Management Plan (WMP) for demolition and ongoing was submitted with the application. Conditions are to be included in the consent to ensure all waste generated will be stockpiled, managed and disposed of appropriately.

Part 4A- Dwelling Houses

The development application has been assessed against the controls contained in *Part 4A of the DCP – Dwellings*. The following table compares the proposed development with the relevant provisions of this policy.

Part	Control	Proposed	Complies
4A.2.4 Streetscape Presentation	C3 Dwellings must reflect dominant roof lines and patterns of the existing streetscape.	The proposal incorporates a skillion roof attached to the existing pitched roof that is consistent with the existing streetscape.	Yes
	C8 Skylights are to be flush with the roof surface and located to the rear of a building.	Total of five (5) skylights proposed at the rear located at least 900mm from the boundary.	Yes
	C17 Any alteration to an individual semi-detached dwelling must recognise it as being one of a pair.	The proposed alterations and first floor addition demonstrates continuity with the existing architectural design of the pair of semi-detached dwelling.	Yes

Part	Control	Proposed	Complies
	C18 Extensions must integrate with the existing building. Extensions must address the likelihood that the adjoining semi may be developed in the future.	The extensions have been designed to integrate with the existing building and will allow for the adjoining dwelling within the pair of semi-detached dwellings to be developed in similar manner.	Yes
	C20 As identified in Figure 5 , the two dwellings that constitute the semi form must be as consistent as possible in scale and material. Note: There are a variety of different architectural designs that can be adopted for first floor additions to semi-detached dwellings, some more traditional and others of a contemporary nature. It is not necessary for the buildings to be identical; however colours and materials should be complementary in the street-front presentation.	The proposed scale and materials are consistent and complementary to the adjoining pair of semi-detached dwelling as viewed from the street-front presentation.	Yes
	C21 Roof design must prevent the flow of stormwater onto the adjoining semi.	The roof design will prevent the flow of stormwater onto the adjoining semi.	Yes
4A.2.7 Site Coverage	C2 For sites between 200 - <250m ² , the maximum site coverage is 65%.	Proposed site coverage is 64.4% or 150.2m ² .	Yes
4A.2.8 Building Setbacks	C1 Dwelling houses must comply with the following minimum setbacks as set out in Table 1 . Less than 12.5m lot width: <ul style="list-style-type: none"> • Front – comply with prevailing street setback or 6m min. • Side – merit. • Rear – 4m min. • Nil Setback- merit • Eaves- 450mm min. 	Main Dwelling Front: <u>Ground floor:</u> No changes proposed <u>First floor:</u> 11 metres Side: Western side <u>Ground floor:</u> Nil <u>First floor:</u> Nil Eastern side (Secondary street frontage) <u>Ground floor:</u> 900mm <u>First floor:</u> 1.5 metres	Yes Existing No – Refer to Note 2 below

Part	Control	Proposed	Complies
	<p>C3 Ground floor alterations and additions presenting to a secondary street frontage may present a continuous building setback of 1 metre for a maximum length of 6 metres. The remaining building must present a 3 metres setback to the secondary street frontage (refer to Figure 15).</p> <p>Note: Where a property has a secondary frontage to a laneway, garages and out buildings are to be setback 1 metre.</p> <p>C4 Regardless of the existing secondary street setback, second storey additions must be setback 3 metres from the secondary street frontage.</p>	<p>(building line) – 1.26 metres (windows)</p> <p>Rear: <u>Ground floor:</u> 7 metres <u>First Floor:</u> 9.6 metres</p> <p>Eaves: Min. 450mm proposed</p> <p>Outbuilding Shed Front: N/A Side: Nil Rear: Nil</p> <p>Carport Secondary frontage is not to a laneway, but Queen Street. Refer to Part 4A.4.8 Car Parking below for further discussions.</p>	<p>Yes</p> <p>Yes</p> <p>No – Refer to Note 2 below</p> <p>Refer to Part 4A.4.8 Car Parking</p>
	<p>C5 Side and rear setbacks should be modulated to avoid the appearance of bulky or long walls. Side and rear setbacks should be stepped or walls articulated by projecting or recessing window elements.</p>	<p>The first floor is modulated at the side and rear elevations by projecting window elements.</p>	<p>Yes</p>
<p>4A.2.9 Landscape Area</p>	<p>C2 Development shall comply with the following minimum landscaped area requirements, based on the area of the site in Table 2. Table 2 requires the following minimum landscaped area: (i) 15% for sites that have an area less</p>	<p>Proposed landscaped area is 15.4% or 36m².</p>	<p>Yes</p>

Part	Control	Proposed	Complies
	than 250m ²		
4A.3.1 Materials and Finishes	C1 A Schedule of Finishes and a detailed Colour Scheme for the building facade must accompany all Development Applications involving building works (refer to Council's Development Application Guide for further detail).	A Schedule of Colours and Finishes was provided with the development application.	Yes
4A.3.2 Roofs and Attics/Dormers	C1 Where roof forms in a street are predominantly pitched, then any proposed roof should provide a similar roof form and pitch. Roof pitches are to be between 22.5 degrees and 40 degrees.	The proposed skillion roof is to be attached to the existing pitched roof, which will not change the roof form as viewed from the street-front presentation.	Yes
4A.3.4 Fences	C18 Side fences of a height of 1.8 metres are not to extend beyond the front building line. Note: Fences with untextured surfaces that present a blank appearance to the street are unsuitable and discouraged.	The proposed 1.8 metres high side fence and sliding gate is consistent with the existing height and material of the side fence.	Yes
4A.4.1 Visual Privacy	C2 Visual privacy for adjoining properties must be minimised by: <ul style="list-style-type: none"> ▪ Using windows which are narrow or glazing ▪ Ensuring that windows do not face directly on to windows, balconies or courtyards of adjoining dwellings ▪ Screening opposing windows, balconies and courtyards; and ▪ Increasing sill heights to 1.5 metres above floor level. 	The proposed first floor level windows will be connected to bedrooms that are considered as low impact rooms. The view of the windows mostly orientated to the street, with the exception of the bay window on the northern side. Although it does not have 1.5 metres of sill height, this window will not directly face the courtyard of the adjoining property to the west. The proposed rear deck will also be elevated from the natural ground level. However, this will not	Yes

Part	Control	Proposed	Complies
		result in any adverse privacy impact to the adjoining property as the height of the existing dividing fence will be 1.5 metres from the deck finished floor level and it is also proposed to plant one (1) Eucalyptus tree. Hence, visual privacy between the adjoining properties will be maintained.	
4A.4.3 Solar Access	C1 Buildings (including alterations/additions/extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pools, patios and terraces, and drying areas of both the subject site and adjoining properties.	As the subject site is a corner block with north to south orientation, most of the overshadowing will cast to the streets and to the roof area of the adjoining pair of semi-detached dwelling at 22 Hambly Street. The principal open space area of 22 Hambly Street will be minimally affected by the proposed outbuilding, as the height of the proposed development will be gradually reduced towards the western side and to match the height of the existing boundary fence.	Yes
4A.4.4 Private Open Space	C2 For sites less than 250m ² , a minimum area of 25m ² applies.	Minimum of 40m ² of POS proposed.	Yes
	C3 For terraces and decks to be included in calculations of areas for private open space, these must be of a usable size (minimum 10m ²) with one length or width dimension being a minimum of 2 metres, and be accessible from a communal or living area of the dwelling. Note: To be included in a calculation of private open space, decks are	The width of deck is 3 metres.	Yes

Part	Control	Proposed	Complies
	not to be located more than 500mm above natural ground level.		
4A.4.7 Vehicle Access	C1 Driveways within a property shall have a minimum width of 3 metres.	The existing driveway is to be retained.	As existing
	C6 The number of vehicle crossings is to be limited to one (1) per allotment.	Single vehicular crossing is to be retained on site.	As existing
4A.4.8 Car Parking	C1 Development must comply with Part 3A – Car Parking	Refer to Part 3A above.	Yes
	<p>C3 Car parking is to be located at the rear of the site with access from a rear lane. If rear lane access is not possible, parking must be provided behind the front building alignment. For existing and new dwellings, a garage or carport in order of priority must be:</p> <ul style="list-style-type: none"> (i) Located at the rear of the site with access from a rear lane; (ii) At the rear of the site with access from the street frontage; (iii) Located at the side of the dwelling house, at least 1 metre behind the front building alignment and 5.5 metres from the front boundary; or (iv) Located at the side of the dwelling house, at least 1 metre behind the front building alignment. <p>Note: Refer to Part 4A.6 - Ancillary Development for buildings on rear or side lanes.</p>	The proposed carport is to be replaced with a new carport that is accessible from the secondary street frontage.	Yes

Part	Control	Proposed	Complies
	<p>C4 Car parking structures must be located and designed to:</p> <ul style="list-style-type: none"> (i) Comply with AS2890.1 and (ii) Conveniently and safely serve all users; (iii) Enable efficient use of car spaces, including adequate manoeuvrability for vehicles between the site and the street; (iv) Not dominate or detract from the appearance of the existing dwelling or new development and the streetscape; (v) Be compatible in scale, form, materials and finishes with the associated dwelling; (vi) Not reduce availability of kerbside parking; (vii) Retain any significant trees; and (viii) Have minimal impact on existing fences and garden areas that contribute to the setting of the associated dwelling and the character of the streetscape. 	<p>The proposed carport is to replace the existing garage on site, and compatible in scale and form to carport approved for the adjoining pair of semi-detached dwelling at 22 Hambly Street approved under DA-10/409. A condition is recommended to ensure that the materials and finishes of the proposed carport will match the associated dwelling.</p>	<p>Yes, subject to condition</p>
	<p>C10 Garages, parking structures (carports and car spaces) and driveways are not to dominate the street.</p> <p>Note: Existing situations where garages dominate the street may not be used as a precedent to justify approval of other similar proposals.</p>	<p>The proposed carport will replace the existing fibro garage with nil setbacks to the side and rear boundaries, which is consistent with the existing development pattern and also complies with height of carport with pitched roof.</p>	<p>Yes</p>
	<p>C14 Garages and Carports must be no higher than 2.4 metres for a flat roof or 3 metres for a pitched roof</p>	<p>The maximum height of proposed carport with pitched roof is 3 metres.</p>	<p>Yes</p>

Part	Control	Proposed	Complies
4A.6 Ancillary development	C1 The principal dwelling plus any ancillary structures are to comply with the controls for site coverage, minimum landscaped area, private open space and setback and height controls.	Aside from the setback requirements, the proposal achieves compliance with these requirements.	Refer to Note 2 – Setbacks below
	C4 Outbuildings (not including secondary dwellings) must be set back 900mm from the site's boundaries. Windows and glass doors are to face into the property. High or opaque windows may face onto a neighbouring property. Note: A nil setback may be used for masonry building walls with no eaves, gutters or windows; and for carports and open structures such as pergolas, awnings, and the like. Compliance with the Building Code of Australia is required.	No outbuilding proposed. Nonetheless nil setbacks are proposed for an open carport and lock up shed.	Yes

Note 2 – Setbacks

The proposed ground floor extension, first floor addition and rear outbuilding, including carport and lock up shed do not comply with Council's DCP requirements for setbacks. The ground floor rear extension and first floor addition do not comply with the secondary street side setback requirements. Given the narrowness of the lot width being 6.15 metres, strict compliance with the DCP by applying 3 metres on the eastern setback for the ground and first floor level would not be practicable nor will it result in a good internal amenity. Regardless of the numerical non-compliance, the objectives of the DCP control remain fulfilled in that the proposed development will complement the streetscape character and continuity of the street facades. The proposed lock up shed and carport will replace the existing dilapidated garage situated on the boundary that has been identified as containing asbestos material on site. The height of the lock up shed is to gradually decrease to match the height of the boundary fence to reduce any adverse impact on to the adjoining property. Overall, the variation to the DCP requirements for setbacks will improve the existing development on site and hence is supportable.

Part 8 – Character Precinct

Part 8.4 Botany Character Precinct of the BBDCP 2013 has been addressed in the assessment of this application. The section provides a rationale for determining whether the proposal fits into the desired future character for the area.

The site is located within the R2 Low Density Residential zone with the primary frontage to Hambly Street and secondary street frontage to Queen Street. Development within the area mainly consists of single and two storey attached, detached and semi-detached fibro and brick dwelling houses. Landscaping in the area includes tree-lined streets and vegetation within varying street setbacks. Access to parking facility is commonly from the street frontage.

The proposed alterations and additions to the existing semi-detached dwelling, including partial demolition of the dwelling, internal reconfiguration and open plan living on ground floor, new deck with BBQ area and privacy screen, first floor addition, new 1.8 metres sliding gate facing Queen Street, new lock up shed and a carport adjoining the northern boundary to replace the existing garage is not likely to result in adverse impacts on the surrounding properties or the locality in regards to overshadowing, bulk and scale, or streetscape impacts as discussed above. The design has been articulated to ensure that bulk, scale and building form do not impact the existing and original cottage form whilst maintaining symmetry and complementing the pair of adjoining semi-detached dwelling.

The proposed alterations and addition to the existing semi-detached dwelling will contribute to the development in the street and surrounding streets, which are experiencing gradual redevelopment to newer style housing. The proposal will provide suitable improvements to the existing dwelling and is considered to enhance the public domain and streetscape within the Precinct. The application is considered to be compatible with the desired future character of the Botany Character Precinct in retaining low density residential development with maximum height of two storeys and maintain the existing development patterns.

Accordingly, the proposal is considered suitable for the subject site and is considered compatible with the desired future character as described in the BBDCP 2013 for the Botany Character Precinct.

S.79C(1)(a)(iv) - Provisions of regulations

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

S.79C(1)(b) - Likely Impacts of Development

As outlined in the assessment above, the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

S.79C(1)(c) - Suitability of the site

The subject site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered, however, given the nature of the development, and the long standing use of the land for residential purposes, onsite investigation is not warranted.

Accordingly, it is considered that the site is suitable to accommodate the development.

S.79C(1)(d) - Public Submissions

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period from 7 September to 21 September 2016 and then re-notified for another fourteen (14) days from 26 October to 9 November 2016. No objections were received as a result of this notification.

S.79C(1)(e) - Public interest

It is considered that granting approval to the proposed development will have no significant adverse impact on the public interest.

OTHER MATTERS

Internal Referrals

The development application was referred to Council's Health Officer, Development Engineer, and Building Surveyor. No objections are provided to the proposed development subject to conditions of consent.

Conclusion

Development Application No.16/145 for alterations and additions to the existing semi-detached dwelling, including partial demolition of the dwelling, internal reconfiguration and open plan living on ground floor, new deck with BBQ area and privacy screen, first floor addition, new 1.8 metres sliding gate facing Queen Street, new lock up shed and a carport adjoining the northern boundary to replace the existing garage at 24 Hambly Street, Botany, has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*.

The proposed exceedance of the floor space ratio requirement is acceptable as it does not surpass the maximum floor space ratio allowable for a dwelling house and it is consistent with the desired future character in this locality. The development complies with the remainder of the Local Environmental Plan and Development Control Plan requirements, with the exception of side and rear setbacks of proposed ground floor extension, first floor addition and rear outbuilding, including carport and lock up shed due to the existing situation and narrowness of the site. Strict compliance with the secondary street frontage requirement for the main dwelling will not result in a good internal amenity. The proposed lock up shed and carport will replace the existing dilapidated garage situated on the boundary that has been identified containing asbestos material on site. Variation to the DCP requirements for setbacks will improve the existing development on site. Therefore, the development is recommended for approval, subject to conditions of consent.

Attachment

Schedule 1 – Conditions of Consent

Premises: 24 Hambly Street, Botany

DA No: 16/145

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

1. The development is to be carried in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Drawing N°	Author	Date Received
Cover Sheet 0.0 Issue A	Design King Company	Dated: 2 August 2016 Received by Council: 18 August 2016
Site/Landscape/Roof Plan 1.1 Issue B		Dated: 4 October 2016 Received by Council: 5 October 2016
Demolition Plan 1.3 Issue A		Dated: 2 August 2016 Received by Council: 18 August 2016
Proposed Ground Plan 1.4 Issue B		Dated: 4 October 2016 Received by Council: 5 October 2016
First Floor Plan 1.5 Issue B		
Proposed Elevation 2.2 Issue B		
Proposed Carport Elevation 2.3 Issue B		Dated: 7 October 2016 Received by Council: 7 October 2016
Section 1+2 Issue C		Dated: 18 January 2017 Received by Council: 18 January 2017
Section 3+4+5 3.2 Issue A		Dated: 2 August 2016 Received by Council: 18 August 2016

Documents	Author	Date Received
Statement of Environmental Effects	Design King Company	Dated: 15 July 2016 Received by Council: 18 August 2016
Waste Management Plan	N/A	Dated: Undated Received by Council: 18 August 2016
Stormwater Drainage Services Ground Floor Layout and Details SWDA 1.2 Rev. P1	Partridge Structural Pty Ltd	Dated: July 2016 Received by Council: 18 August 2016

Stormwater Drainage Services Erosion and Sediment Control Plan and Details SWDA 1.3 Rev P1		
Statement of Structural Design Intent		Dated: 16 August 2016 Received by Council: 7 October 2016
BASIX Certificate No. A254917	Efficient Living	Dated: 13 July 2016 Received by Council: 18 August 2016
Plan showing detail and levels over Lot 52 in DP589783	Total Surveying Solutions	Dated: 18 October 2015 Received by Council: 18 August 2016
FSR Clause 4.6 Variation	Design King Company	Dated: 7 October 2016 Received by Council: 7 October 2016

No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.

2. This Consent relates to land in and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
3. The following shall be complied with:
 - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - b) In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:-
 - i) smoke alarms must comply with AS3786 - 1993;
 - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
 - iii) be located in a position as required by Vol 2. BCA.
4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificates (as referenced at Condition No. 1) for the development are fulfilled.

Note:

- a) Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application

for a construction certificate, the replacement BASIX Certificate.

- b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
5. The consent given does not imply that works can commence until such time that:
- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:-
 - i) The consent authority; or,
 - ii) An accredited certifier; and
 - b) The person having the benefit of the development consent:-
 - i) Has appointed a principal certifying authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE DEMOLITION OF ANY BUILDING OR STRUCTURE

6. The demolisher shall lodge with Council, and at least forty-eight (48) hours prior to the commencement of work:-
- a) Written notice, indicating the date when demolition of the building is to commence.
 - b) This person's full name and address.
 - c) Details of Public Liability Insurance.
7. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
8. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
9. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

The statement must be in compliance with AS2601:2001 – 'The Demolition of Structures', the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must

comply with the “Guidelines for Temporary Protective Structures (April 2001)”;

- b) Induction training for on-site personnel;
 - c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
 - d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
 - e) Disconnection of Gas and Electrical Supply;
 - f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
 - g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
 - h) Waterproofing of any exposed surfaces of adjoining buildings;
 - i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;
 - j) Working hours, in accordance with this Development Consent;
 - k) Confinement of demolished materials in transit;
 - l) Proposed truck routes, in accordance with this Development Consent;
 - m) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”.
 - n) Sewer – common sewerage system.
10. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.
11. Any material containing asbestos found on site during the demolition process the shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation;
 - d) DECC Waste Classification Guidelines 2008.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE

12. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
13. Prior to the issue of any Construction Certificate, the applicant must pay the following fees to Council:-
 - a) Builders Security Deposit \$3,100.00 (see Condition below)
 - b) Development Control \$1,260.00
14. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$3,100.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
15. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, a full photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and the Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the road, kerb, gutter, footpath, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so will result in the applicant being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
16. Prior to the issue of the Construction Certificate, the applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and construction works shall be restored or repaired at the applicant's expense.
17. Prior to the issue of the Construction Certificate, a report is required from a qualified plumber certifying that the existing drainage system, up to where it connects with a Council drainage structure and/or discharges to the groundwater system, is clear of debris and fully operational.

Where the existing system is determined deficient, damaged and/or not operational, a new system shall be designed and constructed by a suitably qualified Civil Engineer in accordance with Council's Stormwater Management Technical Guidelines (SMTG) & AS 3500.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK

18. The Principal Certifying Authority must be satisfied that: -
- a) In the case of work to be done by a licensee under the Home Building Act: -
 - i) Has been informed in writing of the licensee name and contractor licence number, and;
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
 - b) In the case of work to be done by any other person: -
 - i) Has been informed in writing of the persons name and owner-builder permit number, or;
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
19. Prior to the commencement of works, the applicant must inform Council, in writing, of:
- a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if: -
 - i) A contract is entered into for the work to be done by a different licensee; or
 - ii) Arrangements for the doing of the work are otherwise changed.
20. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
21. Building plans must be lodged through the 'Sydney Water Tap In' Service for approval prior to commencement of works.
22. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
23. Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the *Protection of the Environment Operations Act 1997*.

a) Level Restrictions

Construction period of 4 weeks and under:

the L₁₀ sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).

Construction period greater than 4 weeks and not exceeding 26 weeks:

the L₁₀ sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).

b) Time Restrictions

Construction/demolition work shall be limited to the following hours:

Monday to Friday: 07:00 am to 05:00 pm

Saturday: 08:00 am to 01:00 pm

No Construction to take place on Sundays or Public Holidays.

c) Silencing

All possible steps should be taken to silence construction site equipment.

24. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:

- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
- b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
- c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.

25. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993 as appropriate: -

(It should be noted that any works shown within Council's road reserve or other

Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips
 - c) Permit for roads and footways occupancy (long term/ short term)
 - d) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve
 - e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever
 - f) Permit to place skip/waste bin on footpath and/or nature strip
 - g) Permit to use any part of Council's road reserve or other Council lands.
26. Erosion and sediment control devices shall be installed prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the Protection of Environment Operations Act 1997 and the Department of Environment, Climate Change and Water guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

DURING WORKS

27. The proposed development shall comply with the following:
- a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i) Stating that unauthorised entry to the work site is prohibited;
 - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - iii) The Development Approval number; and
 - iv) The name of the Principal Certifying Authority including an after hours contact telephone number.
 - b) Any such sign is to be removed when the work has been completed.
28. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:

- a) Protection of site workers and the general public.
- b) Erection of hoardings where appropriate.
- c) Asbestos handling and disposal where applicable.
- d) Any disused service connections shall be capped off.
- e) The disposal of refuse is to be to an approved waste disposal depot.

29.

- a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -
 - i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
 - ii) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -
 - 1 The additional load on the system; and
 - 2 The relocation and/or adjustment of the services affected by the construction.
- b) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

30. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.

31. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.

32. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.

33.

- a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property;
- b) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.

- c) As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i) Protect and support the adjoining premises from possible damage from the excavation, and
 - ii) Where necessary, underpin the adjoining premises to prevent any such damage.
34. The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.
- 35.
- a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and,
 - b) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
 - e) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
36. During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF A
OCCUPATION CERTIFICATE**

37. Prior to the issue of any Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
38. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
39. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the *Environmental Planning and Assessment Act, 1979*.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

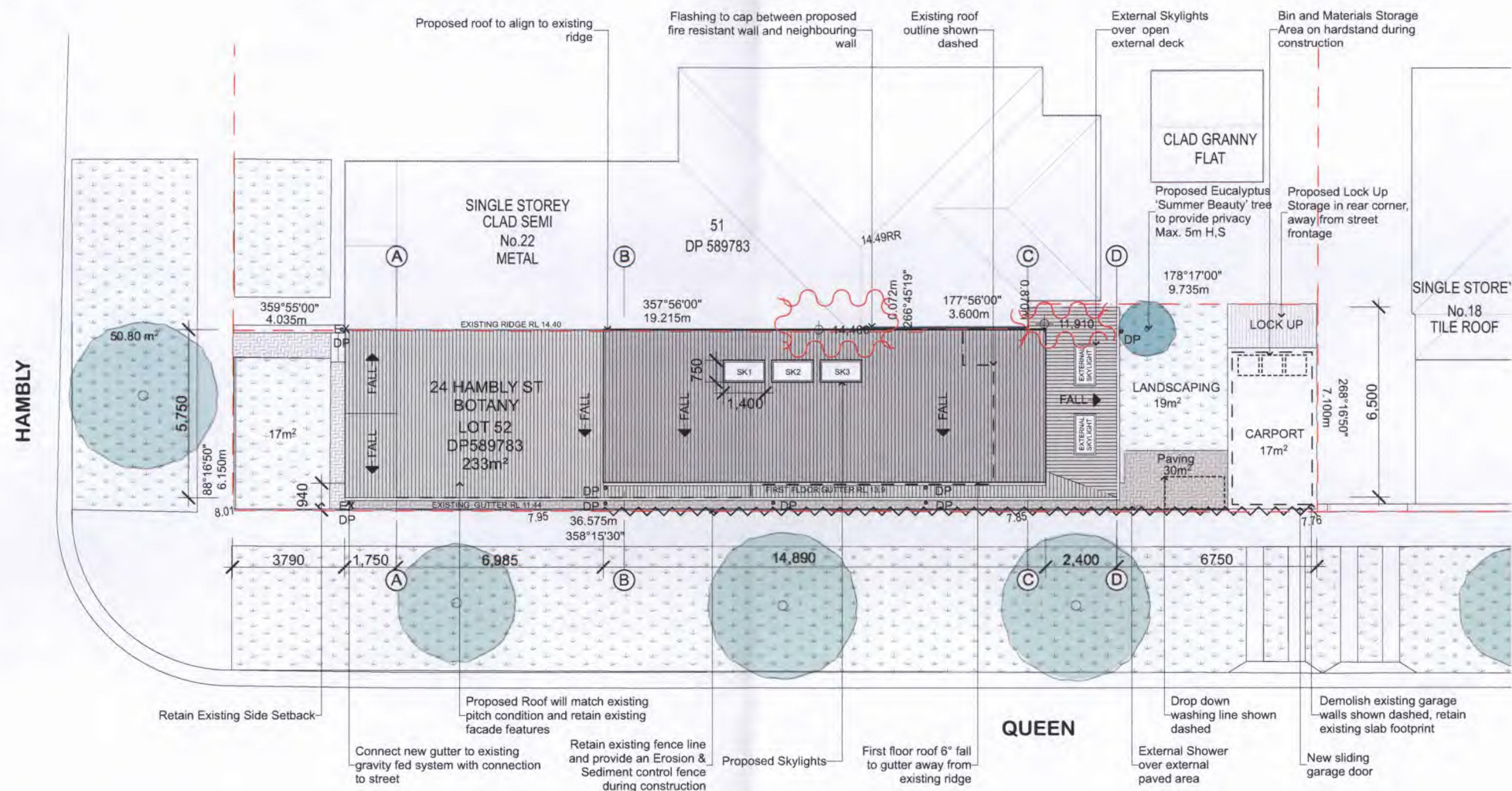
40. The ongoing maintenance of the nature strips shall be undertaken by the occupier/owner. Maintenance includes mowing, the removal of weeds, rubbish and maintaining a good, even coverage of grass at all times. Maintenance **does not include** pruning, trimming, shaping or any work to street tree located on the Council nature strip under any circumstances at any time. Pruning is undertaken by Council only.
41. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975*, and *AS2201, Parts 1 and 2 - 1978 Intruder alarm systems*.
42. A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - b) Before 7 am or after 10 pm on any other day.
43. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

44. The building is approved as a single dwelling on each site for use and occupation by a single family. It shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council.
45. The proposed carport at the rear must be constructed with material, colours and finishes that match the existing dwelling.
46. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 16/145 dated as 18 August 2016 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.



Site/Landscape/Roof Plan
1:200

Notes:
do not scale from this drawing, contractor to check all dimensions on site prior to work commencing. Any discrepancies to be reported to designer. Subcontractors to verify all dimensions on site before making shop drawings or commencing manufacture

Issue No.
A
B

amendment description
DEVELOPMENT APPLICATION
DA - Request For Information

date
02-08-2016
04-10-2016

project
24 Hambly St, Botany

client
Ben Lea



DESIGNKING COMPANY

Unit 102 21 Alberta St
Sydney NSW 2000 Australia
Tel: 02 9261 3062
Fax: 02 9261 3175
www.designking.com.au
Nominated Architect: Jodi King #23441
ACN 066 321 373

design team JK

drawn JK / TB

date Tuesday, 4 October 2016

job No. BL001

scale 1:200@ A3

title

Site/Landscape/Roof Plan

Drawing No. 1.1

Issue No. B

Page 92



MC- Zinc Cladding



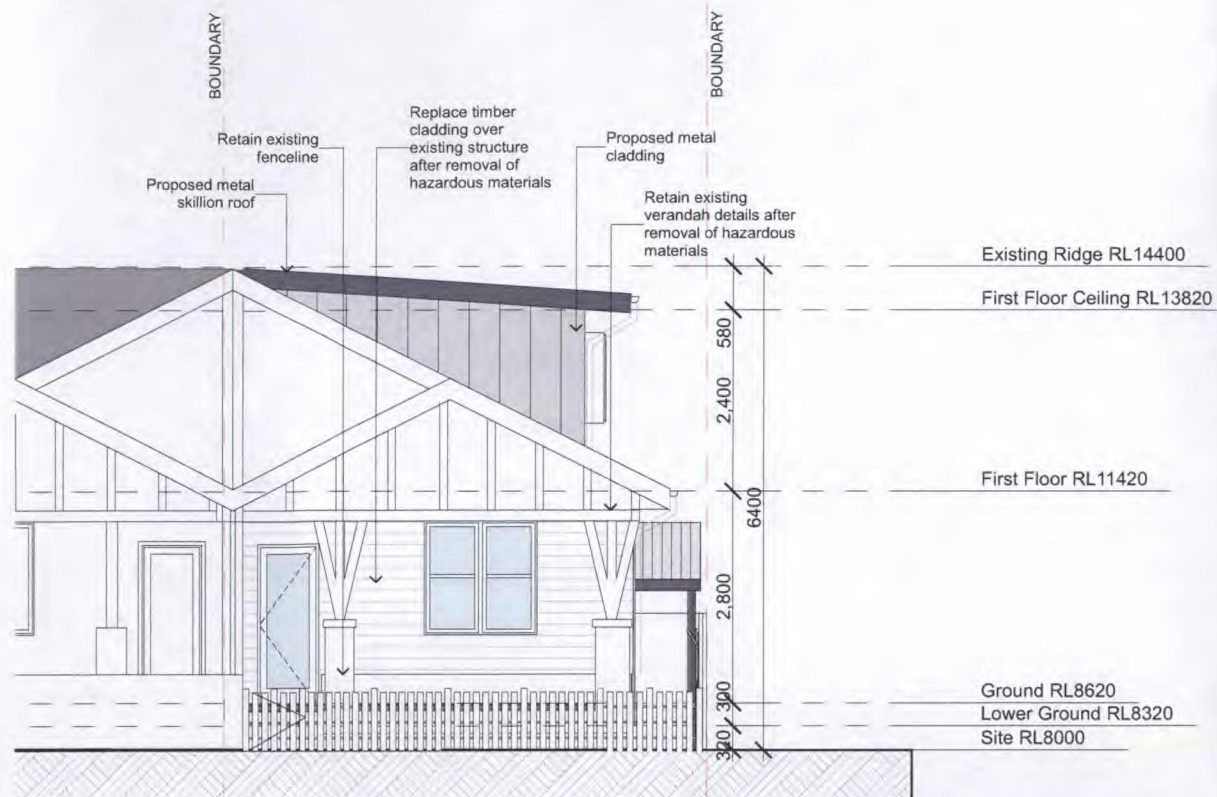
TC- Horizontal Timber Cladding to Match Existing



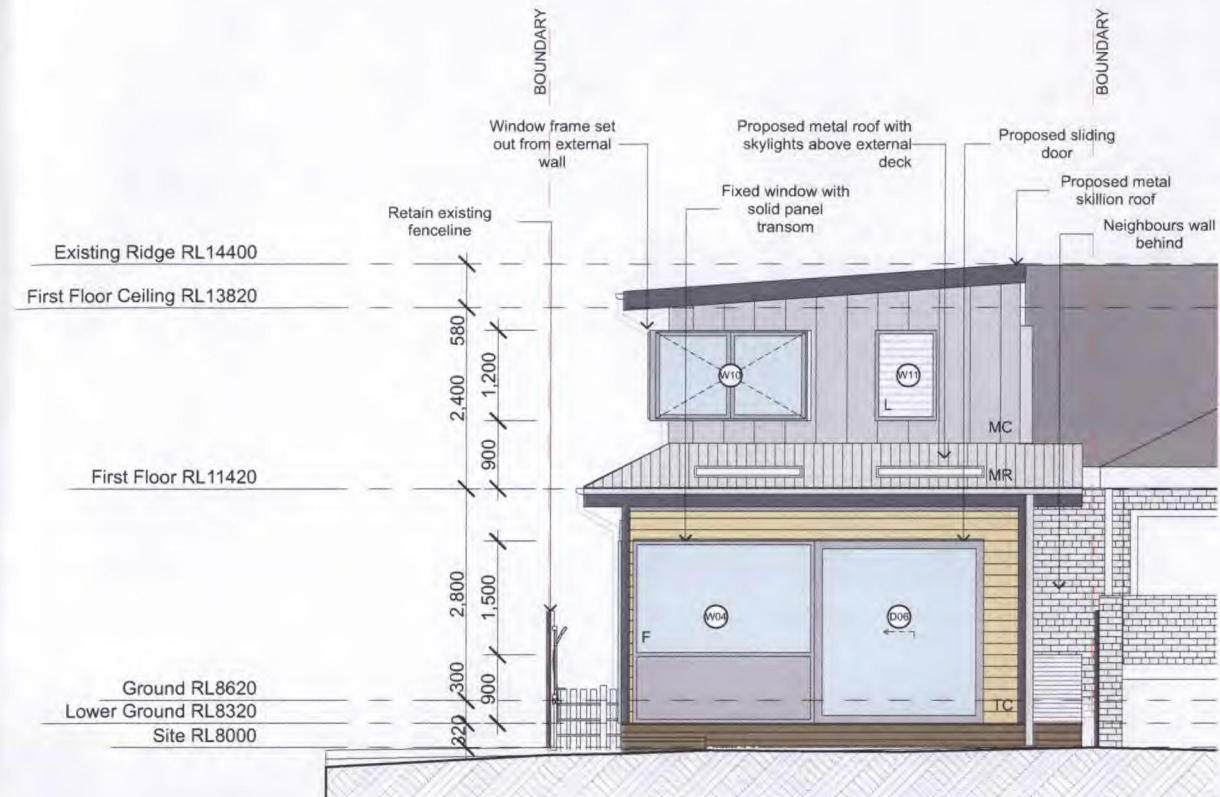
MR- Colorbond Roof - Monument & Round Colorbond Gutters & Downpipes to match



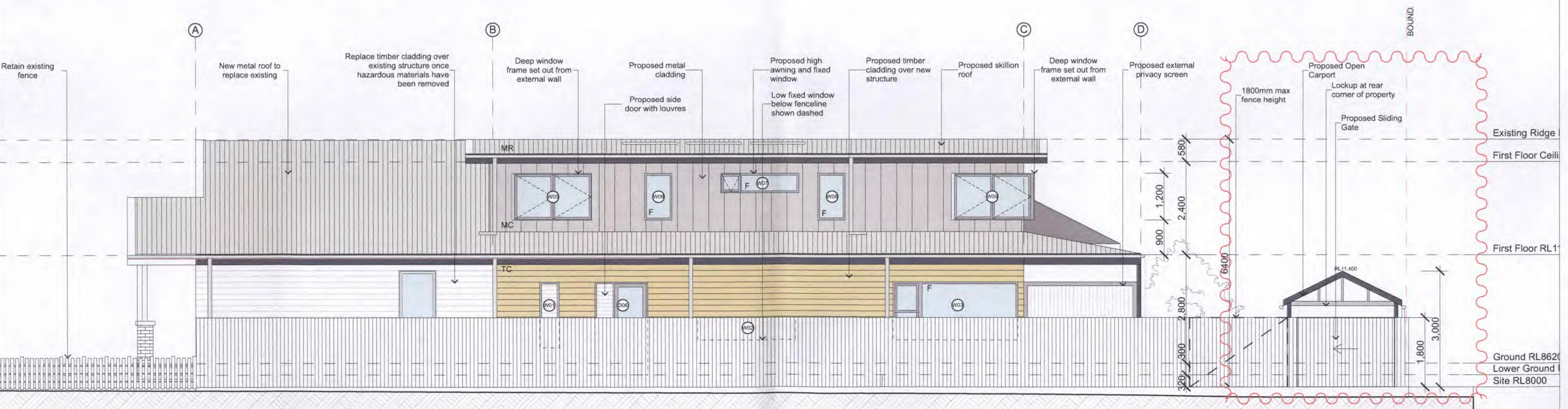
Black Anodised Aluminium Frame Windows



Proposed South Elevation
1:100



Proposed North Elevation
1:100



Proposed East Elevation
1:100

Notes:
do not scale from this drawing, contractor to check all dimensions on site prior to work commencing. Any discrepancies to be reported to designer. Subcontractors to verify all dimensions on site before making shape drawings or commencing manufacture

issue No.
A
B

amendment description
DEVELOPMENT APPLICATION
DA - Request For Information

date
02-08-2016
04-10-2016

project
24 Hambly St, Botany

client
Ben Lea

DESIGNKING COMPANY

Unit 102/21 Albemarle St
Sydney NSW 2000 Australia
Tel: 02 9261 3062
Fax: 02 9261 3178
www.designking.com.au
Nominated Architect: Jon King #23441
ACN 066 321 373

design team JK

drawn JK / TB

date Wednesday, 5 October 2016

job No. BL001

scale 1:100

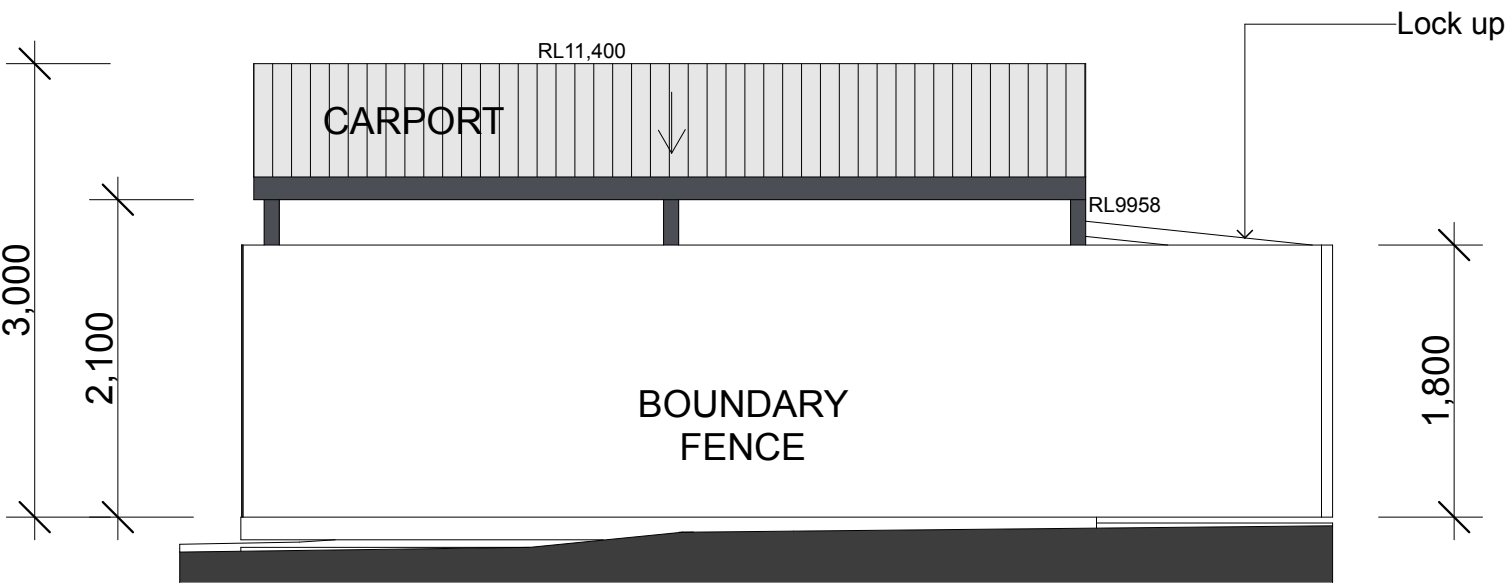
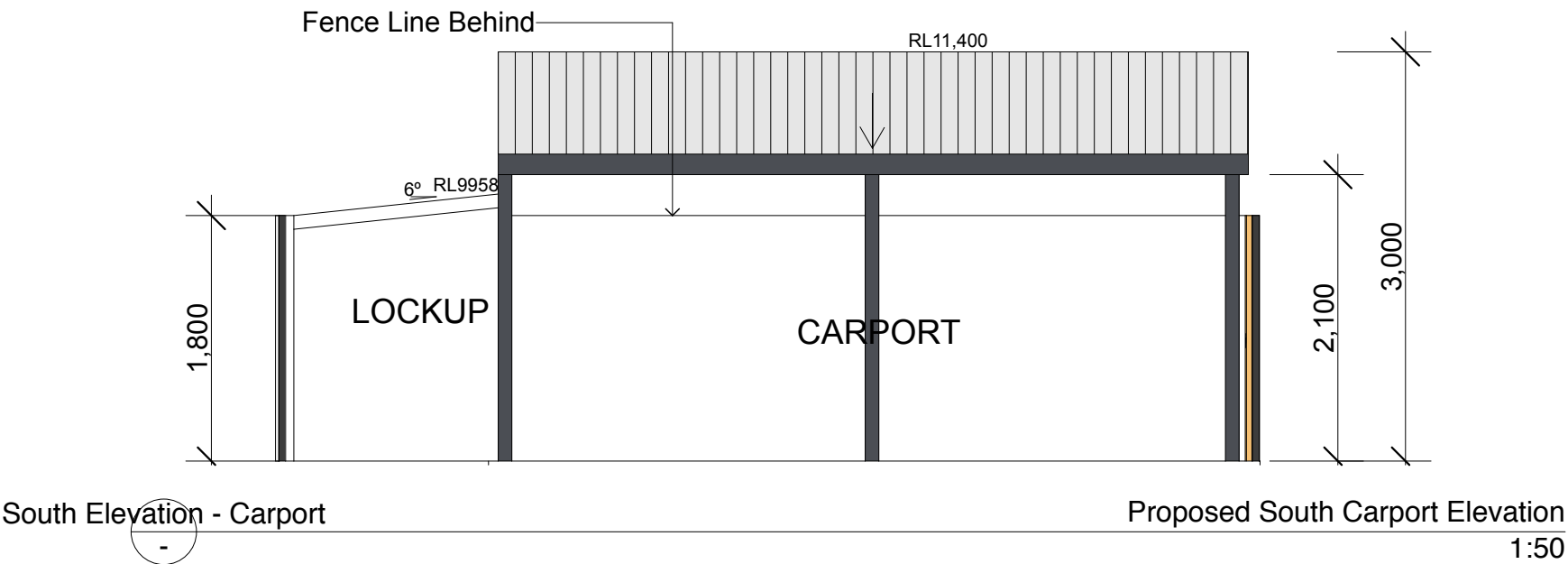
title

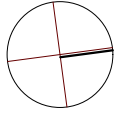
Proposed Elevations

Drawing No. 2.2

Issue No. B

Page 93



Notes: do not scale from this drawing, contractor to check all dimensions on site prior to work commencing. Any discrepancies to be reported to designer. Subcontractors to verify all dimensions on site before making shope drawings or commencing manufacture	issue No.	amendment description	date	project	 N	DESIGNKINGCOMPANY Unit 102 21 Alberta St Sydney NSW 2000 Australia Tel. 02 9261 3062 Fax 02 9261 3175 www.designking.com.au Nominated Architect: Jon King #23441 ACN 066 321 373	design team JK	title Proposed Carport Elevation Drawing No. 2.3 Issue No. B
	A	DEVELOPMENT APPLICATION	02-08-2016	24 Hambly St, Botany			drawn JK / TB	
	B	DA - Request For Information	04-10-2016	Ben Lea			date Friday, 7 October 2016 job No. BL001 scale 1:50@ A3	

Council Meeting

8/03/2017

Item No	9.4
Property	72-86 Bay Street, Botany NSW 2019 <ul style="list-style-type: none">• Lot 7 in DP 19083;• Lots 1 & 2 in SP 52116;• Lot A & B in DP 314930;• Lot 1 in DP 740756.
Proposal	Section 96(2) Modification Application to modify Development Consent No. 16/024 to convert a 2 bedroom unit into a 3 bedroom unit and the adjoining communal open space into private open space associated with this unit (A7.01), increase the study and balcony of Unit B7.02, convert the rooftop communal open space within Building B into a non-trafficable roof, relocate the hot water system from the roof to the eastern side of the ground floor communal room and modify Condition No. 32(c) relating to the construction hours.
Cost of Development	N/A
Report by	Amy Groher, Senior Development Assessment Planner
Application No	DA-16/24/02

Council Resolution

Minute 2017/028

Resolved by the Administrator:

- 1 That Council resolve, pursuant to Section 96(2) of the *Environmental Planning & Assessment Act 1979*, to modify DA-16/24, which was granted for an additional level within the western building at 72-86 Bay Street, Botany by:
 - a. Amending Condition No. 1 to reference the amended plans.
 - b. Amending Condition No. 17 to reflect the increase in s94 contributions payable due to the conversion of Unit A7.01 from a 2 bedroom to a 3 bedroom unit.
 - c. Adding Condition No. 20(g) requiring the conversion of the study within Unit B7.02 back to its original approved size and as per the plans (as amended).
 - d. Amending Condition No. 32(c) to reflect the construction hours within DA-12/233. and
 - e. Amending Condition No. 56 to refer to the consent as amended by this modification.
 - 2 That objectors be advised of Council's decision.
-

Officer Recommendation

- 1 That Council resolve, pursuant to Section 96(2) of the *Environmental Planning & Assessment Act 1979*, to modify DA-16/24, which was granted for an additional level within the western building at 72-86 Bay Street, Botany by:

- a. Amending Condition No. 1 to reference the amended plans.
- b. Amending Condition No. 17 to reflect the increase in s94 contributions payable due to the conversion of Unit A7.01 from a 2 bedroom to a 3 bedroom unit.
- c. Adding Condition No. 20(g) requiring the conversion of the study within Unit B7.02 back to its original approved size and as per the plans (as amended).
- d. Amending Condition No. 32(c) to reflect the construction hours within DA-12/233. and
- e. Amending Condition No. 56 to refer to the consent as amended by this modification.

2 That objectors be advised of Council's decision.

Attachments

Planning Assessment Report
Amended Plans

Location Plan

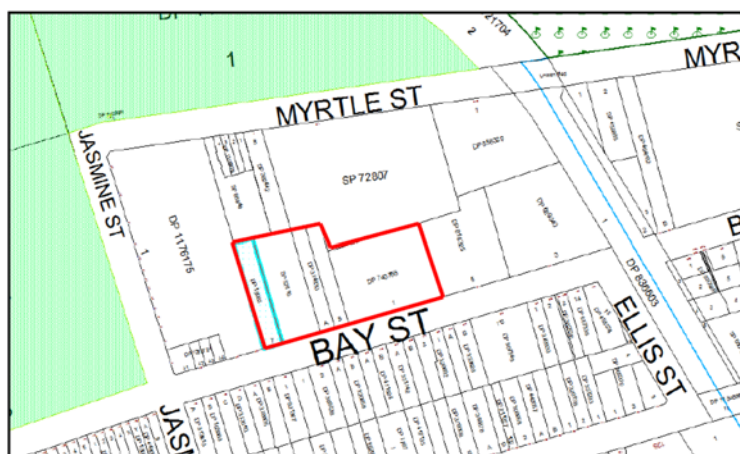


Figure 1: Locality Plan

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-16/24/02
Date of Receipt:	27 October 2016
Property:	72-86 Bay Street, Botany NSW 2019 <ul style="list-style-type: none">• Lot 7 in DP 19083;• Lots 1 & 2 in SP 52116;• Lot A & B in DP 314930;• Lot 1 in DP 740756.
Owner:	Bay Street Botany Pty Ltd
Applicant:	Bay Street Botany Pty Ltd
Proposal:	Section 96(2) Modification Application to modify Development Consent No. 16/024 to convert a 2 bedroom unit into a 3 bedroom unit and the adjoining communal open space into private open space associated with this unit (A7.01), increase the study and balcony of Unit B7.02, minor changes to the rooftop communal open space within Building B, relocate the hot water system from the roof to the eastern side of the ground floor communal room and modify Condition No. 32(c) relating to the construction hours.
Recommendation:	Approval
Value:	N/A
No. of submissions:	Seven - against
Author:	Amy Groher – Senior Development Assessment Planner
Date of Report:	21 February 2017

Key Issues

Council received Section 96(2) Modification Application No. 16/24 on 27 October 2016 seeking consent to modify Development Consent No. 16/024 to convert a 2 bedroom unit into a 3 bedroom unit and the adjoining communal open space into private open space associated with this unit (A7.01), increase the study and balcony of Unit B7.02, minor changes to the rooftop communal open space within Building B, relocate the hot water system from the roof to the eastern side of the ground floor communal room and modify Condition No. 32(c) relating to the construction hours at 72-86 Bay Street, Botany.

In accordance with Part 2 of the BBDCP 2013, the development application was notified to surrounding property owners for a fourteen-day period from 16 November 2016 – 30 November 2016. It was then readvertised for a fourteen-day period from 30 November 2016 – 14 December 2016 as the application was originally notified as a Section 96(1A).

Seven objections were received during the notification period and relate to the proposed increase to the approved construction hours and privacy impacts from the private open space of Unit A7.01 to the adjoining residences to the north. These issues are discussed further in the report.

On 30 July 2015, Development Application No. 12/233/01 was issued by the Land and Environment Court for the demolition of all improvements on the site, and construction of a 3-6 storey residential development, containing 154 units, basement car parking, landscaping and ancillary works at 72-86 Bay Street, Botany. On 19 February 2016, Council received DA-16/24 for the addition of a seventh level. This s96(2) Modification Application relates to modifications to the approved seventh level.

The proposed development does not result in any additional non-compliances with the ADG, BBLEP 2013 or BBDCP 2013 and will not result in any additional adverse impacts to surrounding neighbours.

The key objection to the proposed modification is the extension of the approved construction hours. However, this extension merely aligns the construction hours with the construction hours approved under DA-12/233 for the overall development of the site.

The s96(2) Modification Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval, subject to conditions of consent.

Recommendation

- 1 That Council resolve, pursuant to Section 96(2) of the *Environmental Planning & Assessment Act 1979*, to modify DA-16/24, which was granted for an additional level within the western building at 72-86 Bay Street, Botany by:
 - a. Amending Condition No. 1 to reference the amended plans;
 - b. Amending Condition No. 17 to reflect the increase in s94 contributions payable due to the conversion of Unit A7.01 from a 2 bedroom to a 3 bedroom unit;
 - c. Adding Condition No. 20(g) requiring the conversion of the study within Unit B7.02 back to its original approved size and as per the plans (as amended);
 - d. Amending Condition No. 32(c) to reflect the construction hours within DA-12/233; and
 - e. Amending Condition No. 56 to refer to the consent as amended by this modification.
- 2 That objectors be advised of Council's decision.

Background

History

On 30 July 2015, Development Application No. 12/233/01 was issued by the Land and Environment Court for the demolition of all improvements on the site, and construction of a 3-6 storey residential development, containing 154 units, basement car parking, landscaping and ancillary works at 72-86 Bay Street, Botany. This DA had been the subject of an appeal by council on the original determination by the Commissioner, which was upheld. This was in relation to the size of the units and non-compliance with Council's then DCP unit sizes. As Council was successful in this appeal, the DA was referred back to the Commissioner who

approved the development without compliant RFDC unit sizes. The site with this development approval has been sold to the new owner.

On 19 February 2016, Council received a new DA for the subject site seeking alterations and additions to the existing residential flat building including a modified basement alignment, conversion of the communal room to a 2 bedroom unit, removal of the pool at ground level and erection of a communal area, conversion of 2 x two bedroom units into 2 x three bedroom units on Level 4, 5 additional units on a new Level 7 (4 x two bedroom units, 1 x one bedroom unit) and associated landscaping.

On the 19 April 2016, the Applicant filed a Class 1 Appeal against Council's deemed refusal of Development Application No. 16/24.

Subsequent to the receipt of amended plans and associated documentation, the Development Application was heard at the Council Meeting on 6 July 2016. The existing Class 1 Appeal was then amended to an appeal on conditions which was settled at s34 mediation. Court orders were made on 9 November 2016.

Site preparation works have been carried out including the demolition and removal of all existing structures and vegetation on the subject site. The construction of a perimeter shoring wall has been carried out generally in accordance with the plans submitted with the Section 96AA modification application, and not the plans approved by the Land and Environment Court. In April 2016, Council issued a penalty infringement notice to the applicant for the construction of the perimeter shoring wall without prior issue of a Construction Certificate. Council has also issued a penalty infringement notice for breaching conditions of consent being the approved construction hours and the death of a mature tree.

Construction of above ground works has already commenced.

The original modification received by Council proposed to increase the study of Unit B7.02 to 12.55sqm and convert the rooftop communal open space within Building B into a non-trafficable roof.

These proposed changes were not acceptable and the plans (as amended) now show that the study of Unit B7.02 has been decreased in size to 8.64sqm and the rooftop communal open space within Building B has been reinstated and modified slightly to accommodate the increased balcony associated with Unit B7.02. The plans (as amended) are satisfactory and have been discussed further in the report.

Proposal

This s96(2) Modification Application seeks Council consent to modify Development Consent No. 16/24 of the approved seven storey residential flat building at 72-86 Bay Street, Botany as follows:

- convert Unit A7.01 from a 2 bedroom unit into a 3 bedroom unit;
- convert the adjoining communal open space next to Unit A7.01 into private open space associated with this unit;
- increase the balcony (POS) of Unit B7.02;
- modify the rooftop communal open space within Building B (facing Bay Street) in response to the increased POS of Unit B7.02;
- relocate the hot water system from the roof to the eastern side of the ground floor communal room; and
- modify Condition No. 32(c) to increase the approved construction hours to reflect the approved construction hours of DA-12/233.

On 14 December 2016, amended plans were received in response to a Stop The Clock letter issued by Council on 21 November 2016.

The plans (as amended) detail the following changes:

- addition of a sliding door from the study of Unit B7.02 to the balcony;
- increase the balcony of Unit B7.02;
- modify the communal open space within Building B (facing Bay Street) in response to the balcony changes to Unit B7.02;
- Reduction in the size of the hot water system from 23sqm to 10.92sqm.

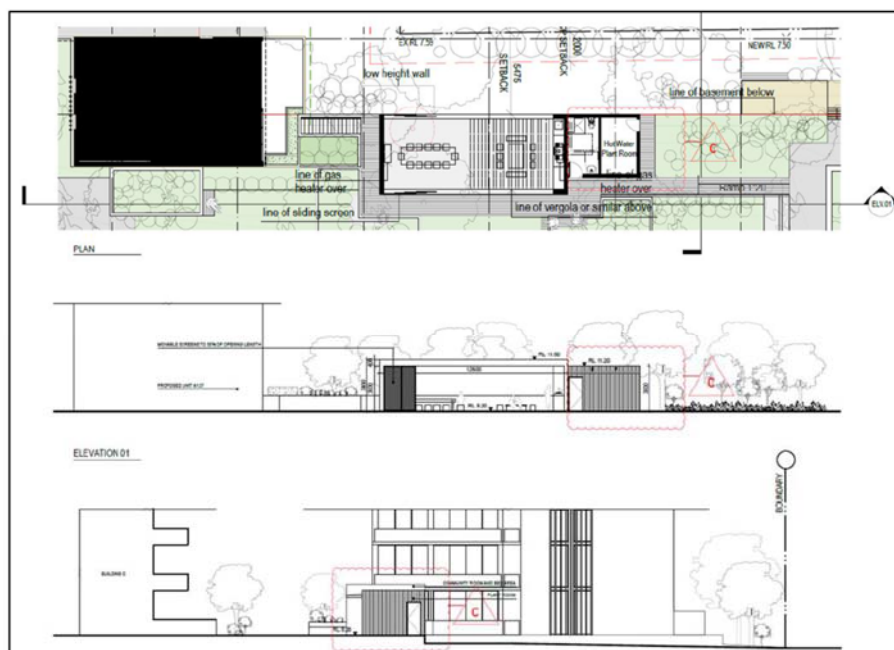


Figure 1: Proposed location of hot water system

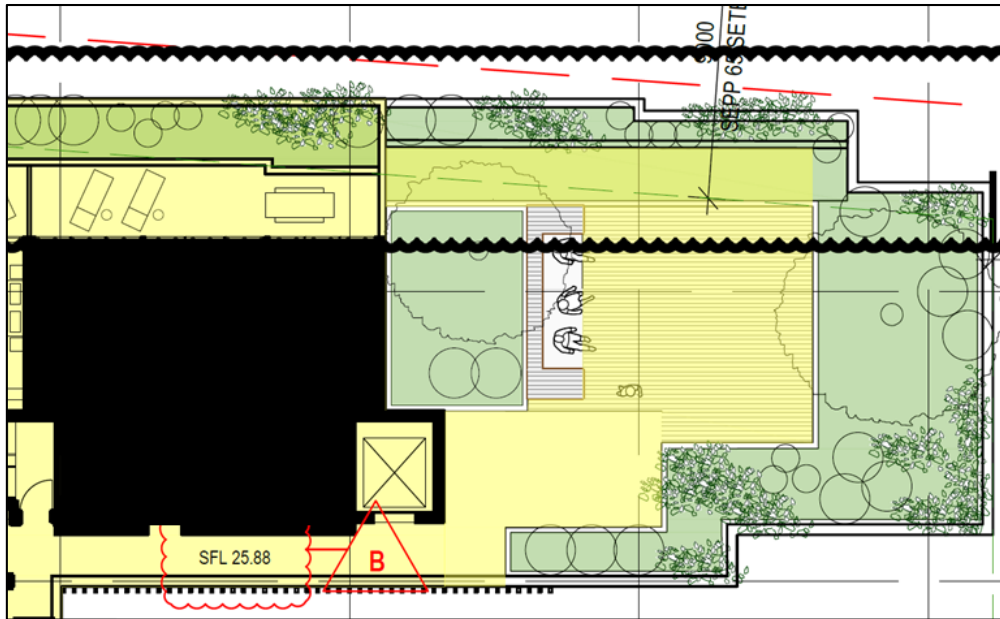


Figure 2: Approved communal open space

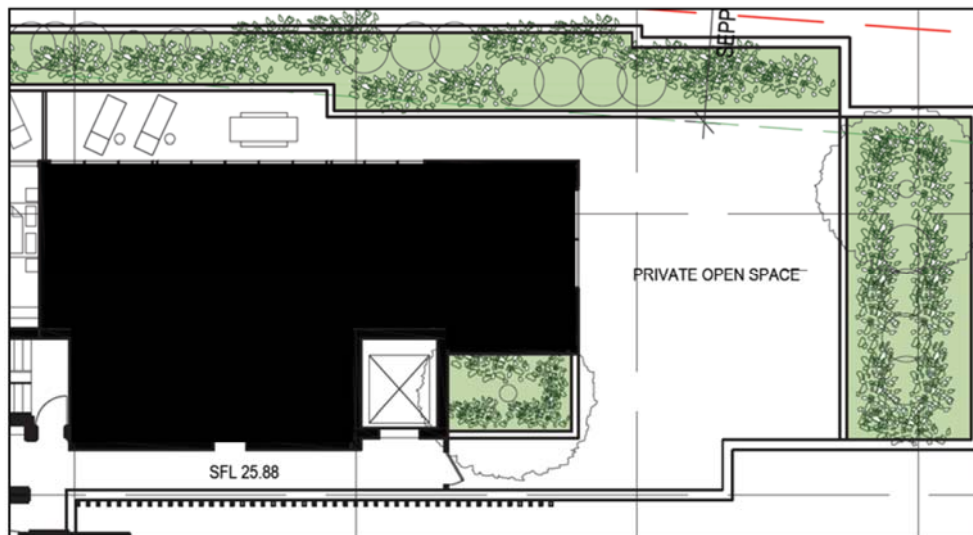


Figure 3: Proposed conversion to private open space

Site Description

The subject site is located on the northern side of Bay Street, east of Jasmine Street and west of the Botany/ Sydenham Goods Railway Line. The site is formed by the following six (6) allotments that make up a total site area of 7,775sqm.

The legal description of the land as a parcel of six (6) lots is as follows:

- Lot 7 in DP 19083, being 72 Bay Street, Botany;
- Lots 1 & 2 in SP 52116 being 74-76 Bay Street, Botany;
- Lot A & B in DP 314930, being 80 Bay Street, Botany; and

- Lot 1 in DP 740756 being 82-88 Bay Street, Botany.

The site has a total frontage to Bay Street of approximately 126.325m, an irregular rear northern boundary of 126.545m (with an eastern boundary indent of 18.522m), an eastern side common boundary (with 90-92 Bay Street) of 52.275m, and a western side common boundary (with 70 Bay Street) of 74.455m. Vehicular access to the site is via Bay Street.

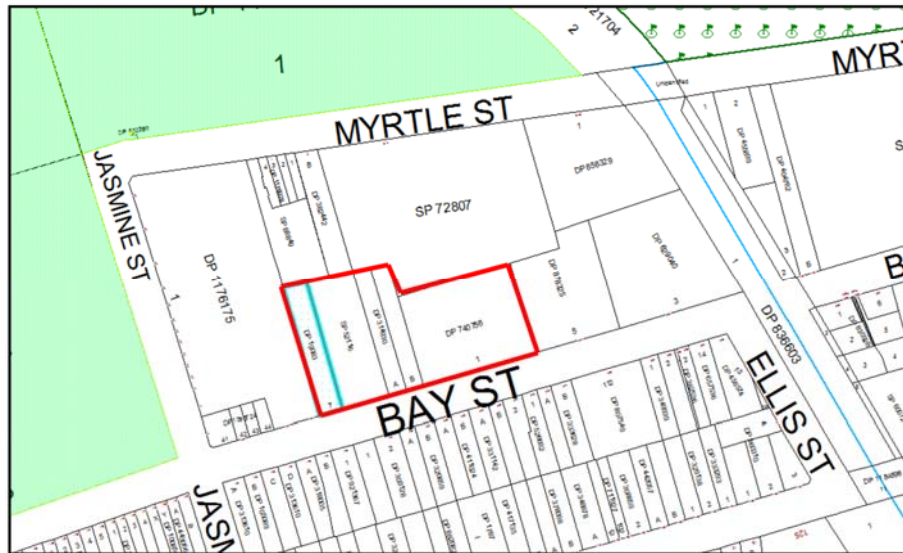


Figure 2: Locality Plan



Figure 3: Subject site – view looking north-west from Bay Street



Figure 4: Subject site – view looking north-east from Bay Street

The site is surrounded by a mixture of residential and light industrial uses:

- To the north, (the rear of the subject site) along Myrtle Street are residential flat buildings and townhouses zoned R3 – Medium Density Residential. Further to the north is the Botany Aquatic Centre.
- To the west along Jasmine Street is a residential and townhouse development zoned R3 – Medium Density Residential. Further west is Booralee Park, which is listed as a Heritage Item under the BBLEP 2013.
- To the south of the site are primarily single storey detached dwellings along Bay Street which are zoned R2 – Low Density Residential.

Adjoining the site to the east along Bay Street is a residential flat building development currently under construction. Further east is an industrial building that is zoned R3 – Medium Density Residential and adjoins the Goods Railway Line along its eastern boundary.

Referrals

The development application was referred to Council's Development Engineer and Landscape Architect for comment who raised no objection to the proposed changes.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

S.79C(1) - Matters for Consideration – General

S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development as the total cost of works are more than \$50,000. An amended BASIX Certificate (Certificate Number: 700737M_05, dated 21 October 2016, prepared by Senica Consultancy Group Pty Ltd) has been submitted committing to environmentally sustainable measures.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the development application, along with the requirements of Part 3K, relating to contaminated land.

Remediation was considered and addressed as part of the original DA-12/233 and as such, requires no further investigation.

State Environmental Planning Policy (SEPP) No. 65 – Design Quality of Residential Apartment Building

This Development Application is not saved under the provisions of the RFDC as it was lodged following the amendment to the RFDC on 19 June 2015. As such, this Development Application is assessed under the ADG provisions insofar as they relate to the proposed changes being minimum dwelling size, balcony size, storage communal open space and associated solar access, and landscaping. There is no change to the approved separation distances to adjoining or internal neighbours.

The applicant has submitted a SEPP 65 assessment of the proposed development along with a Design Verification Statement prepared by Steve Zappia of Marchese Partners, to verify that the design was overseen by a Registered Architect and achieves the design quality principles set out in Part 2 of SEPP No. 65.

The proposal has been assessed against the ADG requirements and is discussed below.

Table 1: Compliance with key SEPP 65 (ADG) provisions

Control	Required	Proposal	Complies (yes/no)
Site Area	-	Site Area: 7,775sqm	N/A
Dwelling Size	Minimum internal areas as follows:	3 bed (A7.01): 102sqm	Yes

Control	Required	Proposal	Complies (yes/no)
	3 bed unit: 90sqm		
Balcony Sizes	2 bed: 10sqm	2 bed (B7.02): 44sqm	Yes
Storage	3+ bed: 10m ³	3 bed (A7.01): 10m ³	Yes
Communal Open Space	25% of site (1,943.75sqm)	Decrease of 86.92sqm (10.92sqm hot water system and 76sqm COS associated with Building A) from 3,491sqm (44%) to 3,404.08sqm (43%)	Yes
Solar Access	50% direct sunlight to the principal usable part of the COS for a minimum of 2 hours during mid-winter Note: Part 4C requires that COS receives 3 hours in winter.	The original proposal to remove both roof-top communal terraces would have reverted back to the original level of solar access to the ground floor COS which complied with the 2 hour requirement but not the 3 hour requirement. Having two rooftop COS which receive 100% solar access all day during mid-winter off-set the non-compliance experienced within the ground level COS. The removal of one rooftop COS still enhances the solar access for the site as this area receives 100% solar access all day during mid-winter.	Yes

Note: Size of study within Unit B7.02

The application originally sought to increase the study within Unit B7.02 from the approved size of 8.64sqm to 12.5sqm.

Part 4C.4.1 (Dwelling Mix and Layout), Control C2 and C3 read as follows:

C2 To avoid a secondary living space, study, or the like being used as a bedroom, it will only be regarded as such if it has no door or enclosure.

C3 Any enclosable secondary living space, study, or the like with a window (i.e. a habitable room), which is 9sqm or greater will be regarded as a bedroom for the purpose of consideration of the unit size, unit mix, car parking and for the calculation of Section 94 Contributions.

Given the above, the expansion of the study within Apartment B7.02 was not supported unless the plans and proposal were amended to have it considered as a 2 bedroom unit, and amended plans were provided to show compliance with the following:

- Car Parking: 2 spaces required for apartments with 2+ bedrooms;
- Dwelling size: Minimum of 70sqm;
- Balcony size: Minimum of 10sqm;
- Storage: Minimum of 8sqm;

- Unit Mix: Maximum of 25% 1 bed and studio apartments.

On 15 December 2016, Council received amended plans showing the study had been decreased in size, back to the size as originally approved and complying with the 9sqm maximum size as stipulated at Part 4C.4.1, Control C3.

Notwithstanding the above, a new Condition No. 22(g) recommends that the Construction Certificate plans for Unit B7.02 show the correct size of the study being 8.64sqm.

Botany Bay Local Environmental Plan 2013

The provisions of the BBLEP 2013 have been considered in the assessment of the Development Application and the following information is provided:

Table 1: BBLEP 2013 Compliance Table

Principal Provisions of BBLEP 2013	Compliance (Yes/No)	Comment
Land Use Zone (Part 2 of LEP)	Yes	The site is zoned R3 Medium Density Zone under the BBLEP 2013.
Is the proposed use/works permitted with development consent? (Part 2 of LEP)	Yes	A Residential Flat Building is permissible with Council's consent under the R3 Medium Density Residential zone of the BBLEP 2013.
Does the proposed use/works meet the objectives of the zone? (Part 2 of LEP)	Yes	The proposed modification is consistent with the objectives of the zone which are as follows: <ul style="list-style-type: none"> • <i>To provide for the housing needs of the community within a medium density residential environment.</i> • <i>To provide a variety of housing types within a medium density residential environment.</i> • <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> • <i>To encourage development that promotes walking and cycling.</i>
What is the height of the building? Does the height of the building comply with the maximum building height? (Part 4 of LEP)	Yes	A maximum building height of 22m applies to the subject site, by virtue of the bonus FSR clause. The proposed modifications do not seek to alter the approved height of 21.98m.
What is the proposed FSR? Does the FSR of the building comply with the maximum FSR?	Yes	The FSR applicable to the subject site is 1.65:1 (or 12,828.75sqm). The subject site has an area of 7,775sqm. <u>Existing:</u> Total GFA: 1.64:1 (12,773.75sqm) <u>Proposed:</u>

Principal Provisions of BBLEP 2013	Compliance (Yes/No)	Comment
(Part 4 of LEP)		<p>Additional GFA proposed: 27sqm (Unit A7.01 increase from 2 bedroom to 3 bedroom)</p> <p>Total combined GFA: 12,800.75sqm</p> <p>FSR 1.64:1</p> <p>The proposed FSR of 1.64:1 complies with the requirements of the BBLEP 2013.</p>
<p>Is the site within land marked "Area 3" on the FSR Map?</p> <p>If so, does it comply with the sliding scale for FSR in Clause 4.4A?</p> <p>(Part 4 of LEP)</p>	N/A	The site is not located within land marked "Area 3" on the FSR Map.
<p>The following provisions in Part 6 of the LEP apply to the development:</p> <ul style="list-style-type: none"> • 6.1 – Acid Sulfate Soils (ASS); • 6.2 – Earthworks; • 6.3 – Stormwater management; • 6.8 – Airspace operations; • 6.9 – Development in areas subject to aircraft noise. 	<p>Yes</p> <p>N/A</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>Class 4 ASS affect the subject site. The requirements of this Clause have been considered in the original assessment of the development application. As such, there is no further assessment required for the proposed additions.</p> <p>There are no earthworks proposed as part of the modification.</p> <p>Stormwater has been assessed as part of the original Development Application and appropriate conditions were included in the consent.</p> <p>A maximum building height of 15.24m applies to the site in accordance with the Obstacle Limitation Surface Map. The approved height of 21.98m (top of the lift overrun) was assessed by SACL who raised no objection.</p> <p>The subject site is located within the 20-25 ANEF contour where residential development is classified as "acceptable". A Noise Impact Assessment (prepared by Acoustic Logic) was submitted with the original application and appropriate conditions recommended in the consent.</p>

The objectives and provisions of the BBLEP 2013 have been considered in relation to the subject development application. The proposal is satisfactory in terms of the BBLEP 2013.

S.79C(1)(a)(ii) - Provisions of any Draft Environmental Planning Instruments

There are no current Draft Environmental Planning Instruments applicable to this development.

S79C(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application.

Botany Bay Development Control Plan 2013

The following is an assessment of the proposed development against the relevant provisions of this DCP:

Part 3A – Parking & Access

There is no change proposed to car parking or to unit numbers which would increase the car parking rate.

The provisions of Part 3A are satisfied.

Part 4C – Residential Flat Buildings

Table compares the proposed development with the relevant provisions of this policy.

Table 2: BBDCP 2013 Compliance Table

Control	Proposed	Complies (Yes/No)
4A.2.4 Streetscape Presentation		
Min. 35% (2,721.25sqm)	Decrease of 27sqm from 5,483sqm to 5,456sqm.	Yes

Proposed Change to the approved Construction Hours

The applicant seeks to change the approved construction hours for DA-16/24 (which relates to the additional level on the western building) to reflect those approved for the whole development under DA-12/233.

The applicant has justified the changed as follows:

“Given that the original approval was for the bulk of the approved development and was approved by way of the Land and Environment Court, it is considered unreasonable and unnecessary to impose conditions associated with the construction of the development, that conflict with those which formed part of the original development consent.

It is therefore requested that Council amend Condition 32(c) of DA-16/24 to reflect that of Condition 50(b) of DA-2012/233/1, and align with the general construction hours of the industry.”

The table below outlines the approved construction hours across both DAs which apply to the site, as well as the proposed construction hours.

Table 3: Approved and Proposed Construction Hours

Development Application	Approved Construction Hours
DA-12/233	Monday to Friday: 7:00am to 6:00pm Saturday: 7:00am to 2:00pm Sunday and Public Holidays: No construction
DA-16/24	Monday to Friday: 7:00am to 5:00pm Saturday: 8:00am to 1:00pm Sunday and Public Holidays: No construction
Proposed construction hours	Monday to Friday: 7:00am to 6:00pm Saturday: 7:00am to 2:00pm Sunday and Public Holidays: No construction

Council Comment: There is no proposal to increase the construction hours above and beyond what is currently approved for the whole development under DA-12/233. DA-12/233 was approved through the Land and Environment Court for the construction of 3 x 6 storey residential flat buildings on the site with associated basement car parking and landscaping. The construction hours of 7:00am to 6:00pm Monday to Friday: and 7:00am to 2:00pm Saturday were approved by the court.

Council granted approval for a seventh level on the western building under DA-16/24 which granted construction hours of 7:00am to 5:00pm Monday to Friday and 8:00am to 1:00pm Saturday, which are not consistent with the original Court approved consent for DA-12/233.

There have been construction related complaints, which have also been raised in the objections relating to the extended construction hours. Council's Compliance Team have taken action where these complaints have been substantiated. Notwithstanding this, the approval of the construction hours sought will not prevent the proprietor from complying.

As there will be no additional impacts above and beyond what is currently approved, and to ensure consistency across the entire development, the proposed amendment of Condition 32(c) is supported.

Part 8 – Character Precinct

The subject site is located in the northern portion of the Botany Character Precinct within the R3 Medium Density Residential zone with vehicular access to Bay Street.

The changes proposed do not result in additional inconsistencies with the desired future character of the area.

S.79C(1)(a)(iv) - Provisions of Regulation

Clause 92 of the Regulation has been considered. The proposal does not involve demolition.

S.79C(1)(b) - Likely Impacts of Development

The proposed modifications will have no significant additional adverse environmental, social or economic impacts in the locality.

S.79C(1)(c) - Suitability of the site

The suitability of the site was addressed as part of DA-12/233 and considered suitable.

S.79C(1)(d) - Public Submissions

In accordance with Part 2 of the BBDCP 2013, the development application was notified to surrounding property owners for a fourteen-day period from 16 November 2016 – 30 November 2016. It was then readvertised for a fourteen-day period from 30 November 2016 – 14 December 2016 as the application was originally notified as a Section 96(1A).

Seven objections were received during the notification period and relate to the proposed increase to the approved construction hours and privacy impacts from the private open space of Unit A7.01 to the adjoining residences to the north.

The relevant objections and Council's response are summarised in the Table below.

Table 4: Summary of objections and Council's response

Objection	Response
Objection to the increase of the approved construction hours (especially given the current construction hours are not adhered to).	Refer to the assessment above. The proposed change to extend the approved construction hours will not extend the hours above and beyond what is currently approved over DA-12/233 which is for the main building.
Objection to the conversion of the northern communal open space to a private open space associated with Unit A7.01 for reasons of privacy.	<p>The 9m setback from the private open space to the northern boundary has not changed. While the setback is 8.7m (exhibiting a non-compliance of 300mm), it was previously assessed as acceptable given the adequate width of the planter bed along the northern side of the private open space which varies from 1.9m – 2.3m.</p> <p>An Acoustic Assessment was provided during the assessment of DA-16/24 which assesses the acoustic impacts from the two new communal roof-top terraces. The Acoustic Assessment indicated that the communal rooftop areas are positioned such that overall noise impacts are minimised due to the fact that there are no windows or balconies (private open space) to the apartments adjoining the communal areas.</p>

S.79C(1)(e) - Public interest

Given the minor nature of external changes, granting approval to the proposed development is not contrary to the public interest.

S.96(2) Considerations

In considering the Section 96(2) Application, the matters listed in Section 96(1A) of the *Environmental Planning and Assessment Act 1979* have been taken into consideration in the preparation of this report as follows:

S.96(2)(b) – Consulted with the relevant Minister, Public Authority or Approval Body

There is no requirement to consult with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval.

S.96(2)(a) - Substantially the same development

The modifications will result in substantially the same development as that approved under DA-12/233 the demolition of all improvements on the site, and construction of a 3-6 storey residential development, containing 154 units, basement car parking, landscaping and ancillary works and DA-16/24 being alterations and additions to the existing residential flat building including a modified basement alignment, conversion of the communal room to a two bedroom unit, removal of the pool at ground level, erection of a pergola structure to be used as a communal room, conversion of 2 x two bedroom units into a 2 x three bedroom units on Levels 4 and 5, five additional units on Level 7 (4 x two bedroom, 1 x one bedroom unit), and associated landscaping.

S.96(2)(c) - Notification

Please refer to the section above.

S.96(2)(d) - Submissions

Please refer to the section above for a detailed assessment of the submissions.

Section 94 Contributions

The proposed development will increase the demand for public amenities within the area due to the conversion of Unit A7.01 from a 2 bedroom apartment to a 3 bedroom apartment. In accordance with Council's Botany Bay Section 94 Contributions Plan 2016, section 94 contributions shall be applied for the additional of a bedroom created by the proposal.

The fees for a 2 and 3 bedroom unit are listed below:

- 2 bedroom unit: \$13,211.47
- 3 bedroom unit: \$17,268.80

The contribution is calculated as the difference between a 2 bedroom and a 3 bedroom unit being \$4,057.33 for an additional bedroom.

The total s94 contribution payable pursuant to the s34 agreement was \$55,407.13.

The total s94 contribution payable for the proposed development as modified under DA-16/24 is **\$59,464.46**.

This is broken down into the contribution categories as follows:

- | | |
|-------------------------------------|---------------------|
| • Community Facilities (Citywide) | \$ 10,203.93 |
| • Recreation Facilities (Citywide): | \$ 44,323.80 |
| • Transport Management(Citywide): | \$ 4,176.26 |
| • Administration: | \$ 760.47 |
| • TOTAL: | \$ 59,464.46 |

Conclusion

Section 96(2) Modification Application No. 16/24/02 has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*.

The proposal seeks Council consent to convert a 2 bedroom unit into a 3 bedroom unit and the adjoining communal open space into private open space associated with this unit (A7.01), increase the study and balcony of Unit B7.02, minor changes to the rooftop communal open space within Building B, relocate the hot water system from the roof to the eastern side of the ground floor communal room and modify Condition No. 32(c) relating to the construction hours.

The proposed development does not result in any additional non-compliances with the ADG, BBLEP 2013 or BBDCP 2013 and will not result in any additional adverse impacts to surrounding neighbours.

The key objection to the proposed modification is the extension of the approved construction hours. However, this extension merely aligns the construction hours with the construction hours approved for DA-12/233 which is the primary building.

The proposed development is recommended for approval subject to conditions of consent (as amended).

Attachment

Schedule 1 – Conditions of Consent

**Premises: 72-86 Bay Street, Botany
16/24/02**

DA No:

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

1. The development is to be carried in accordance with the following plans and reference documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Drawing No.	Author	Date Received
Level 1 – Ground Floor (Drawing 510, Revision B E) (DA-16/24/02)	Marchesepartners	Dated 14/06/2016 01/12/2016 Received by Council 14/06/2016 15/12/2016

Level 4 (Drawing 513, Revision B)	Marchesepartners	Dated 14/06/2016 Received by Council 14/06/2016
Level 5 (Drawing 514, Revision B)	Marchesepartners	Dated 14/06/2016 Received by Council 14/06/2016
Level 7 (Drawing 516, Revision-BD) (DA-16/24/02)	Marchesepartners	Dated 14/06/2016 01/12/2016 Received by Council 14/06/2016 15/12/2016
Level 8 – Roof Plan (Drawing 517, Revision BD) (DA-16/24/02)	Marchesepartners	Dated 14/06/2016 01/12/2016 Received by Council 14/06/2016 15/12/2016
Level 0 – Car Park (Drawing 520, Revision C)	Marchesepartners	Dated 14/06/2016 Received by Council 14/06/2016
Basement Level 2 – Car Park (Drawing 521, Revision C)	Marchesepartners	Dated 14/06/2016 Received by Council 14/06/2016
Elevations – East & North (Drawing 530, Revision GD) (DA-16/24/02)	Marchesepartners	Dated 14/06/2016 18/10/2016 Received by Council 14/06/2016 15/12/2016
Elevations – West & South + Bay Street Streetscape (Drawing 531, Revision GE) (DA-16/24/02)	Marchesepartners	Dated 14/06/2016 01/12/2016 Received by Council 14/06/2016 15/12/2016
Sections (Drawing 540, Revision B)	Marchesepartners	Dated 14/06/2016 Received by Council 14/06/2016

Referenced Documents

Reference Document Name	Author	Date Received
Cover Sheet (Drawing 500, Revision B)	Marchesepartners	Dated 01/06/2016 Received by Council 14/06/2016
Site and Site Analysis (Drawing 580, Revision A)	Marchesepartners	Dated 29/01/2016 Received by Council 14/06/2016
Level 2 (Drawing 511, Revision B)	Marchesepartners	Dated 14/06/2016 Received by Council 14/06/2016

Level 3 (Drawing 512, Revision B)	Marchesepartners	Dated 14/06/2016 Received by Council 14/06/2016
Level 6 (Drawing 515, Revision B)	Marchesepartners	Dated 14/06/2016 Received by Council 14/06/2016
Section Through Bay Street (Drawing 541, Revision A)	Marchesepartners	Dated 14/06/2016 Received by Council 14/06/2016
Shadow Diagrams June 21 & March 21 (Drawing 560, Revision B)	Marchesepartners	Dated 14/06/2016 Received by Council 14/06/2016
Additional Shadow Impact Assessment (Drawing 561, Revision B)	Marchesepartners	Dated 17/06/2016 Received by Council 20/06/2016
Area Calculation – Sheet 1 (Drawing 570, Revision B)	Marchesepartners	Dated 14/06/2016 Received by Council 14/06/2016
Area Calculation – Sheet 1B (Drawing 570B, Revision B)	Marchesepartners	Dated 14/06/2016 Received by Council 14/06/2016
Area Calculation – Sheet 2 (Drawing 571, Revision B)	Marchesepartners	Dated 14/06/2016 Received by Council 14/06/2016
Schedule of Finishes and Materials (Drawing 580, Revision A)	Marchesepartners	Dated 29/01/2016 Received by Council 20/06/2016
Visual Impact Analysis (Drawing 590, Revision A)	Marchesepartners	Dated 17/06/2016 Received by Council 20/06/2016
Visual Impact Analysis (Drawing 591, Revision A)	Marchesepartners	Dated 17/06/2016 Received by Council 20/06/2016
Visual Impact Analysis (Drawing 592, Revision A)	Marchesepartners	Dated 17/06/2016 Received by Council 20/06/2016
Acoustic Report (Revision 0)	Acoustic Logic	Dated 14/06/2016 Received by Council 16/06/2016
Landscape Plan – Level 4 and 5 (Sheet 4 of 11, Revision B)	360°	Dated 14/06/2016 Received by Council 14/06/2016
Landscape Plan – Level 7 (Sheet 5 of 11, Revision B)	360°	Dated 14/06/2016

		Received by Council 14/06/2016
Amended Statement of Environmental Effects	ABC Planning	Dated April 2016 Received 08/04/2016
Response to Contentions	ABC Planning	Dated June 2016 Received by Council 14/06/2016
SEPP 65 Compliance Table	Marchesepartners	Received by Council 14/06/2016
SEPP 65 Design Verification Statement (Issue B)	Marchesepartners	Dated 14/06/2016 Received by Council 14/06/2016
Solar Access Analysis	Steven King	Dated 07/06/2016 Received by Council 14/06/2016
Traffic Impact Assessment	Traffix	Dated June 2016 Received by Council 14/06/2016
BASIX Certificate (Certificate Number: 700737M)	Basix Services Australia	Dated 03/02/2016 Received by Council 19/02/2016
BASIX Letter (Reference: 16/0049)	Basix Services Australia	Dated 16/02/2016 Received by Council 19/02/2016
NaTHERS Certificate (Certificate Number: 1L5PJVT1XW)	Basix Services Australia	Dated 03/02/2016 Received by Council 19/02/2016
Pedestrian Wind Environment Statement	Windtech	Dated 16/02/2016 Received by Council 19/02/2016
Waste Management Plan	Leigh Designs	Dated 16/02/2016 Received by Council 19/02/2016

2. This consent is to operate in conjunction with Development Consent No. 12(233). In the event of any inconsistencies between this Consent and DA No. 12(233), this consent prevails.
3. No construction works shall be undertaken prior to the issue of the Construction Certificate.

4. This Consent relates to land in Lot 7 in DP 19083, Lots 1 & 2 in SP 52116, Lot A & B in DP 314930, and Lot 1 in DP 740756, and as such, building works must not encroach on to adjoining lands or other public places.
5.
 - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - b) All air conditioning units shall be appropriately treated to ensure that they are concealed from view and compliant with Australian Standard AS1668.2.
6. All costs associated with these development conditions shall be borne by the applicant. If, when actioning these conditions Council's solicitor is required to act on behalf of Council, then Council's solicitor's fees and charges shall also be borne by the Applicant.
7. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. 700737M, dated 3 February 2016 for the development are fulfilled. Prior to the issue of a Construction Certificate, the BASIX Certificate must be updated to reflect the conversion of the proposed 2 bedroom unit on ground floor, back to a communal room.
8.
 - a) Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
9. The consent given does not imply that works can commence until such time that: -
 - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by: -
 - i) The consent authority; or,
 - ii) An accredited certifier; and,
 - b) The person having the benefit of the development consent: -
 - i) Has appointed a principal certifying authority; and,

- ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
- iii) The person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

CONDITIONS IMPOSED BY EXTERNAL AUTHORITIES

10. The following conditions are imposed by the **Sydney Airport Corporation Limited (SACL)** and must be complied with:
 - a) This location lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations which limit the height of structures to 15.24 metres above existing ground height (AEGH) without prior approval of the Civil Aviation Safety Authority.
 - b) The application sought approval for the property development to a height of 29.0 metres Australian Height Datum (AHD).
 - c) In the capacity as Airfield Design Manager and an authorised person of the Civil Aviation Safety Authority (CASA) under Instrument Number: CASA 229/11, in this instance, the Airfield Design Manager has no objection to the erection of this development to a maximum height of 29.0 metres AHD. Should you wish to exceed this height a new application must be submitted.
 - d) Should the height of any temporary structure and/or equipment be greater than 15.24 metres AEGH, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
 - e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. Sydney Airport advises that approval to operate construction equipment (i.e. cranes) should be obtained prior to any commitment to construct.
 - f) "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)). The height of the prescribed airspace at this location is 51 metres above AHD.
 - g) "Prescribed airspace" includes "the airspace above any part of either an Obstacle Limitation Surface (OLS) or Procedures for Air Navigation Services – Aircraft Operations (PANS-OPS) surface for the airport (Regulation 6(1)). The height of the prescribed airspace at this location is 51 metres above AHD.
 - h) Planning for Aircraft Noise and Public Safety Zones: Current planning provisions (s.117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices in December 2012 (Sydney Airport 2033 ANEF). Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that proposed land uses which have high population densities should be avoided.
 - i) Application for Approval of Crane Operation

- i) Pursuant to s. 183 of the Airports Act 1996 and Reg 7 of the Airports (Protection of Airspace) Regulations 1996, the Proponent must apply through the Airport to the Secretary of the Department of Infrastructure and Regional Development for approval of the operation ("controlled activity") set out in the Schedule.
 - ii) An Application for approval must be given to the Airport at least 28 days before commencement of the operation.
 - iii) The operation must not commence without approval, and must only proceed in compliance with any conditions imposed on such approval.
 - iv) Sydney Airport has delegated authority from the Secretary to determine "short term" operations (less than 3 months).
 - v) The Airport is required to invite submissions from CASA and Airservices regarding the proposed operation.
 - vi) The Secretary and the Airport, as applicable, may request further information before determining an application.
 - vii) The "Important Notes" must be read and accepted.
 - viii) The Proponent must complete this Application and provide it to Sydney Airport, with a copy to the Council as part of the relevant Development Application.

- 11. The following conditions form the General Terms of Approval dated 27 September 2013, and reconfirmed in a letter dated 11 March 2016 by the NSW Office of Water and must be complied with:
 - a) General
 - i) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
 - ii) The design and construction of the structure shall preclude the need for permanent dewatering by waterproofing those areas that may be impacted by any water table (i.e. a fully tanked structure) with adequate provision for unforeseen fluctuations of water table levels to prevent potential future inundation.
 - iii) Construction methods and material used in and for construction shall not cause pollution of the groundwater.
 - b) Prior to excavation
 - i) Measurements of groundwater levels beneath the site from a minimum of three monitoring bores shall be taken and a report provided to the NSW Office of Water. A schedule and indicative plans of the proposed ongoing water level monitoring from the date of consent until at least two months after the cessation of pumping shall be included in the report.
 - ii) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and a report provided to the NSW Office of Water. Details of the calculation method shall be included in the report.

- iii) A copy of a valid development consent for the project shall be provided to the NSW Office of Water.
 - iv) Groundwater quality testing shall be conducted and a report supplied to the NSW Office of Water. Samples must be taken prior to the commencement of pumping, and a schedule of the ongoing testing throughout the dewatering activity shall be included in the report. Collection and testing and interpretation of results must be done by suitably qualified persons and NATA certified laboratory identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria.
 - v) The method of disposal of pumped water shall be nominated (i.e. street drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided to the NSW Office of Water. The disposal of any contaminated pumped groundwater (tailwater) must comply with the provisions of the *Protection of the Environment Operations Act 1997* (NSW) and any requirements of the relevant controlling authority.
 - vi) Contaminated groundwater shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and a report provided to the NSW Office of Water. The quality of any pumped water (tailwater) that is to be reinjected must be compatible with, or improve the intrinsic or ambient groundwater in the vicinity of the reinjection site.
- c) During excavation
- i) Piping or other structures used in the management of pumped groundwater (tailwater) shall not create a flooding hazard. Control of pumped groundwater (tailwater) is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
 - ii) Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Monthly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a report provided to the NSW Office of Water after dewatering has ceased. Daily records of groundwater levels are to be kept and a report provided to the NSW Office of Water after dewatering has ceased.
 - iii) Pumped groundwater (tailwater) shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authorities approval and/or owners consent. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater (tailwater) shall be complied with.
 - iv) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulphate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
 - v) The location and construction of groundwater extraction works that are abandoned are to be recorded and a report provided to the NSW Office of Water after dewatering has ceased. The method of abandonment is to be identified in the documentation.

- vi) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety precautions.
- d) Following excavation
 - i) All monitoring records must be provided to the NSW Office of Water after the required monitoring period has ended together with a detailed interpreted hydrogeological report identifying all actual resource and third party impacts.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY EXCAVATION OR REMEDIATION WORKS

12. Prior to the commencement of any demolition, excavation or remediation works, the applicant must inform Council, in writing, of:
 - a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if: -
 - i) A contract is entered into for the work to be done by a different licensee; or
 - ii) Arrangements for the doing of the work are otherwise changed.
13. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
14. The applicant shall provide Council with a 24 hour contact number for the manager of the remediation works prior to the commencement of any works at the site.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE

15. Prior to the release of the first Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however, this is a State Government fee and can change without notice.
16. The applicant must, prior to the issue of the first Construction Certificate, pay the following fees and bonds:
 - a) Builder's Damage Deposit \$353,475.00;
 - b) Development Control \$2,890.00;

- c) Landscaping Maintenance Bond \$15,000.00.
17. The City of Botany Bay being satisfied that the proposed development will increase the demand for public amenities within the area, and in accordance with Council's Section 94 Contributions Plan 2016 a contribution of ~~\$39,636.00~~ **\$59,464.46** is required to be paid to Council prior to the release of any Construction Certificate. ***The additional \$4,057.33 is to be paid within 1 month of the issue date of this consent (as modified)***. The Section 94 Contribution is subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fees applicable at that time. ***(DA-16/24/02)***
18. Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder's Damage Deposit of **\$353,475.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. This amount includes the Builders Security Deposit required under DA-12(233). The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development in its entirety and all relevant Final Occupational Certificates have been issued.
19. The applicant is to submit payment of a Landscaping Maintenance Bond of **\$15,000.00**. The duration of the Bond shall be limited to a period of 12 months after final inspection of the additional landscaping to the communal areas on Level 5 and all landscaping on Level 7. At the completion of the 12 month period the Bond shall be refunded pending a satisfactory inspection of the landscaping by Council. If any landscaping is found to be dead or dying then Council will forfeit all or part of the bond to replace or maintain the tree, unless the Applicant undertakes this work.
20. Plans submitted for the Construction Certificate are to show the following:
- a) Apartment A1.07 and the pergola and BBQ area is not approved. The Construction Certificate plans are to show the removal of proposed Apartment A1.07 and the proposed pergola and BBQ area by reinstating the communal room and communal open space in accordance with DA 12/233.
 - b) Compliance with the requirement that each 2 and 3 bedroom apartment (relevant to Level 7 and the expanded 2 x 3 bedroom apartments on Level 4) is to have a study by either indicating on the plans that a study nook/space or desk can adequately be accommodated within the open-plan living area;
 - c) The floor surface of the entry, dining room and kitchen floor and internal storage area of the 2 and 3 bedroom apartments on Level 7 and the expanded 2 x 3 bedroom apartments on Level 4 are to be water-resistant;
 - d) Removal of the ventilating skylight to Apartment B6.01. The skylight, if obscure, can remain but cannot be openable given the rooftop is trafficable;
 - e) The design and location of the skylights to Apartments B4.05 and D4.06 are to ensure privacy when the communal area above is in use, but must also allow for light (i.e. not be completely enclosed/covered by landscaping);
 - f) The balustrading to the external edge of the planter box of the communal rooftop terraces are to be non-reflective and light-weight in material and design;

g) The study within unit B7.02 is to remain the size as approved and as per the plans (as amended). (DA-16/24/02)

21. All storage cages, whether floor or ceiling mounted, are to be made of perforated metal and constructed so that no goods can be stored within 500mm of the sprinkler head. This will ensure compliance with Part E1.5 of the BCA & Australian Standard 2118 is maintained. Details are to be submitted to the certifying authority for approval prior to the issue of a Construction Certificate.
22. Prior to the issue of any Construction Certificate, and prior to any further work on the site a Building Certificate is to be obtained from Council for the perimeter retaining wall (shoring) for the basement car-park.
23. Prior to the issue of a Construction Certificate, the applicant must submit to Council's Landscape Architect for review, amended Landscape Plans for the additional landscaping on Level 5 and all landscaping on Level 7, which includes a detailed planting plan which is to cover, but not be limited to, details regarding:
 - a) Plant species (to include bushy species for visual screening and options for low maintenance);
 - b) Number of each species proposed;
 - c) Required pot size and maturity to provide a suitable level of instant screening upon planting;
 - d) Maturity size.
24. All plumbing stacks, vent pipes and the like shall be kept within the building and suitably concealed from view. This condition does not apply to the venting to atmosphere of the stack above roof level. Details shall be submitted to the Principal Certifying Authority prior to issue of the first Construction Certificate.
25. Prior to the issue of the first Construction Certificate, the measures required in the acoustical assessment report prepared by Acoustic Logic, shall be undertaken in accordance with the provisions of AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building.
26. Prior to the issue of the first Construction Certificate, the measures required in the Pedestrian Wind Environment Statement prepared by Windtech, shall be undertaken.
27. Following application a Sydney Water "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Co-ordinator, since building of water/sewer extensions can be timed consuming and may impact on other services and building, driveway or landscape design.
28.
 - a) Prior to the issue of a construction certificate, detailed construction plans of the stormwater management and disposal system for the development, and street

drainage which may require augmentation of the public drainage system, shall be prepared by a suitably qualified civil engineer experienced in drainage design and submitted to Council for approval.

- b) Prior to the issue of a Construction Certificate, the details for the construction of a new Stormwater Inlet Pit, with a 2.4metre Lintel and a Steel Galvanised Grate. The new pit shall drain to the existing 750diameter stub at the rear (northern boundary) of the development site, shall be submitted to Council for assessment given by Council prior to the construction of the stormwater infrastructure.

CONDITIONS WHICH MUST BE SATISFIED DURING ANY DEVELOPMENT OR WORKS

29. If the work involved in the construction of a building is:

- a) likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
- b) involves the enclosure of a public place:
 - i) a hoarding or fence must be erected between the work site and the public place.
 - ii) If necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
 - iii) The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
 - iv) Any such hoarding, fence or awning is to be removed when the work has been completed.

30.

- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
- b) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during excavation, construction and deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion;
- c) Concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land;
- d) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands;
- e) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (e.g. wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.

- f) During construction works the area in front of the premises and for the full width of the site, be maintained at all times and kept clean and tidy.
 - g) The operations of the site shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, particulate matter, waste water, waste products or other impurities which are a nuisance or injurious to health.
 - h) All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
31. The operation shall not give rise to offensive odour or other air impurities in contravention of the Protection of the Environment Operations Act 1997. The Principle contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
- a) Covering excavated areas and stockpiles,
 - b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas,
 - c) Maintenance of equipment and plant to minimise vehicle exhaust emissions,
 - d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources,
 - e) All loads entering or leaving the site are to be covered,
 - f) The use of water sprays to maintain dust suppression,
 - g) Keeping excavated surfaces moist.
32. The development is to be constructed to meet the following construction noise requirements:
- a) Construction Noise
 - i) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
 - b) Level Restrictions
 - i) Construction period of 4 weeks and under:
 - 1 The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10dB(A).
 - 2 Construction period greater than 4 weeks and not exceeding 26 weeks:

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
 - c) Time Restrictions

- i) Monday to Friday 07:00am to 05~~6~~00pm; (**DA-16/24/02**)
 - ii) Saturday **078**:00am to 024:00pm; (**DA-16/24/02**)
 - iii) No Construction to take place on Sundays or Public Holidays.
 - d) Silencing
 - i) All possible steps should be taken to silence construction site equipment.
33. The following shall be complied with:
- a) The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW Environmental Noise Control Manual;
 - b) Vibration levels induced by the demolition and construction activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
 - c) Vibration levels induced by the demolition and construction activities shall not exceed 3mm/sec peak particle velocity (ppv) when measured at the footing of any unoccupied building.
 - d) The upper noise level from the demolition and construction operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).
34. The applicant is responsible for the installation and protection of all regulatory/ parking / street signs fronting the site during construction. Any damaged or missing street signs as a consequence of the construction works associated with the development shall be replaced at full cost to the applicant.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY OCCUPATION CERTIFICATE

35. Prior to the issue of the Occupation Certificate:
- a) The construction of the stormwater drainage system of the proposed development shall be generally in accordance with the approved stormwater management construction plan(s), Council's 'Guidelines for the Design of Stormwater Drainage Systems within City of Botany Bay', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All downpipes shall be located within the property boundaries; and,
 - b) Prior to the issue of any Occupation Certificate, the applicant shall construct at no cost to Council, a new Stormwater Inlet Pit, with a 2.4metre Lintel and a Steel Galvanised Grate. The new pit shall drain to the existing 750diameter stub at the rear (northern boundary) of the development site.
 - c) Documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and accepted practice.

36. Prior to the issue of the Occupation Certificate, the following easements shall be created in conjunction with Council:
- Register a new 3.00metre wide "Easement to Drain Water" over the newly constructed Stormwater Infrastructure benefiting Council.
37. A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection of the newly constructed stormwater pit and pipe system and the existing 750diamtre stormwater pipe at the rear (northern) boundary of the development site all the way to Myrtle Street. The camera and its operation shall comply with the following:
- The internal surface of the drainage pipe shall be viewed and recorded in a clear and concise manner;
 - The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints;
 - Distance from the manholes shall be accurately measured; and
 - The inspection survey shall be conducted from manhole to manhole.
- The written report, together with a copy of the digital video footage of the pipeline shall be submitted to Council for assessment. A written acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.
38. A Section 73 Compliance Certificate under the Sydney Water Act 1994 (NSW) must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to the occupation certificate being issued.
39. Prior to the issue of any Occupation Certificate, documentation shall be submitted to the Principal Certifying Authority that demonstrates that all energy efficiency measures and commitments as detailed in the approved BASIX certificate have been implemented.
40. All mechanical ventilation, exhaust towers and cooling systems must not be visible from any public space. These elements must not impact on the visual presentation of the building. Care is required in the location of any exhaust vent that may generate smells to ensure effects on the residential amenity are minimised.
41. Prior to the issue of any Occupation Certificate, 284 off-street car parking bays shall be provided to the development as shown on the Construction Certificate plans (i.e. reflect the removal of the proposed ground level apartment A1.07). All parking bays and loading bays shall be line marked. The allocation of parking bays shall be in accordance with the following:

Car Parking Rates	Required
1 space / 1 bed unit (66 x 1 bed units)	66
2 spaces / 2 bed unit (83 x 2 bed units)	166

2 spaces / 3 bed unit (10 x 2 bed units)	20
Visitor parking / 5 dwellings (158 units)	32
TOTAL	284

42. Prior to release of any Occupation Certificate the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
43. To ensure the development is constructed in accordance with the approved plans, a Check Survey prepared by a registered surveyor to Australian Height Datum (AHD) shall be prepared on completion of the building works. The survey shall be submitted to the Principal Certifying Authority who must be satisfied that the following are consistent and no higher or closer than that depicted on the approved plans prior to the issue of any Occupation Certificate:
- Height and location of walls and guttering in relation to property boundaries.
 - Level of the floor in relation to the levels on the site (all levels are to be shown relative to Australian Height Datum).
 - All reduced levels shown upon the approved plans have been strictly adhered to.
 - Maximum ridge height of the building subject of this application.
 - A Floor Space Ratio (FSR) of 1.64:1 and height of 21.98m (RL 28.98 – lift overrun) as shown in the plans and schedule approved under this Consent, have been strictly adhered to and any departures are to be rectified prior to issue of any Occupation Certificate.
44. Positive Covenant and Restriction on Use of the land shall be created to all proposed lots to ensure that car parking for the residential part is not to be sublet or used for any other purposes and if strata-subdivided in the future, to ensure 1 storage cage is allocated per unit.
45. Prior to the issue of any Occupation Certificate, the Principal Certifying Authority is to ensure all units within the development are connected to an intercom system located at the vehicle entrance to the car parking area to ensure visitors to the site can access the visitor parking.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

46. The use of the communal roof-top terraces on Level 7, and the communal areas on Level 5 are to be limited to the hours between 7am and 7pm, with no parties or large gatherings except with the express permission from the body corporate.
47. Council's footway (area between property boundary and street kerb) is to be kept clean, tidy, washed and maintained at the applicant's expense.

48. The Protection of the Environment Operations (Noise Control) Regulation 2000, restricts the times that air conditioners can be used as follows:
- a) A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - i) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - ii) Before 7 am or after 10 pm on any other day.
49. The collection of garbage associated with the residential premises shall be restricted to 6am to 6pm Monday to Sunday.
- 50.
- a) The operation of all plant and equipment associated with any of the commercial premises shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).
 - b) The operation of all plant and equipment associated with any of the commercial premises when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - c) The operation of all plant and equipment associated with any of the commercial premises when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.
 - d) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
 - e) All mechanical ventilation extraction systems associated with the commercial premises shall be provided with adequate filters that are regularly maintained.
 - f) The use of any of the commercial premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act 1997 and shall be controlled in accordance with the requirements of this Act.
 - g) The operation of any of the commercial premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil or otherwise.
 - h) The use of any of the commercial premises shall not give rise to air impurities in contravention of the Protection of the Environment Operations Act 1997. Waste gases released from the premises shall not cause a public nuisance nor be hazardous or harmful to human health or the environment.
 - i) No offensive odour from any trade, industry or process shall be detected outside the premises by an authorised Council Officer as defined in the Protection of the Environment Operations Act 1997.

- j) Noise controls specific to the amenity of the residential neighbourhood:
 - i) The La10 noise level emitted from any of the commercial premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5 dB between 6:00pm one day and 8:00am the day following Monday to Sunday when measured at the boundary of any residential property; and,
 - ii) Notwithstanding compliance with the above (Condition No. 120(j)(i)), the noise from any of the commercial premises shall not be audible within any habitable room in any residential premises between the hours of 6:00pm one day and 8:00am the day following Monday to Sunday.
- 51. A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
- 52. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation and to Council's satisfaction at all times. The automatic drip irrigation system shall be maintained in working order plan at all times.
- 53.
 - a) Each residential dwelling (apartment) is approved as a single dwelling for use and occupation by a single family. They shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council;
 - b) The adaptable apartments approved under this development consent are to remain unaltered at all times.
- 54. The communal open space areas shall be managed in a manner so as to not adversely impact the amenity of the residents of the subject site and surrounding residents.
- 55. That before entering a lease/occupancy agreement, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
- 56. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No.16/24 received on 19 February 2016 **and as amended by s96(2) Modification Application No. 16/24/02 received on 27 October 2016** and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council. **(DA-16/24/02)**

SITE ANALYSIS

STREET NETWORK

-Re-zoned block bounded by three streets:
1. Bay St to the South
2. Jasmine St to the West
3. Myrtle St to the North

MAKE-UP

-Light industrial for re-development
-Single storey detached residential dwellings
-New residential developments, townhouses + apartments
-Park + recreation facilities
-Access to retail and transport links

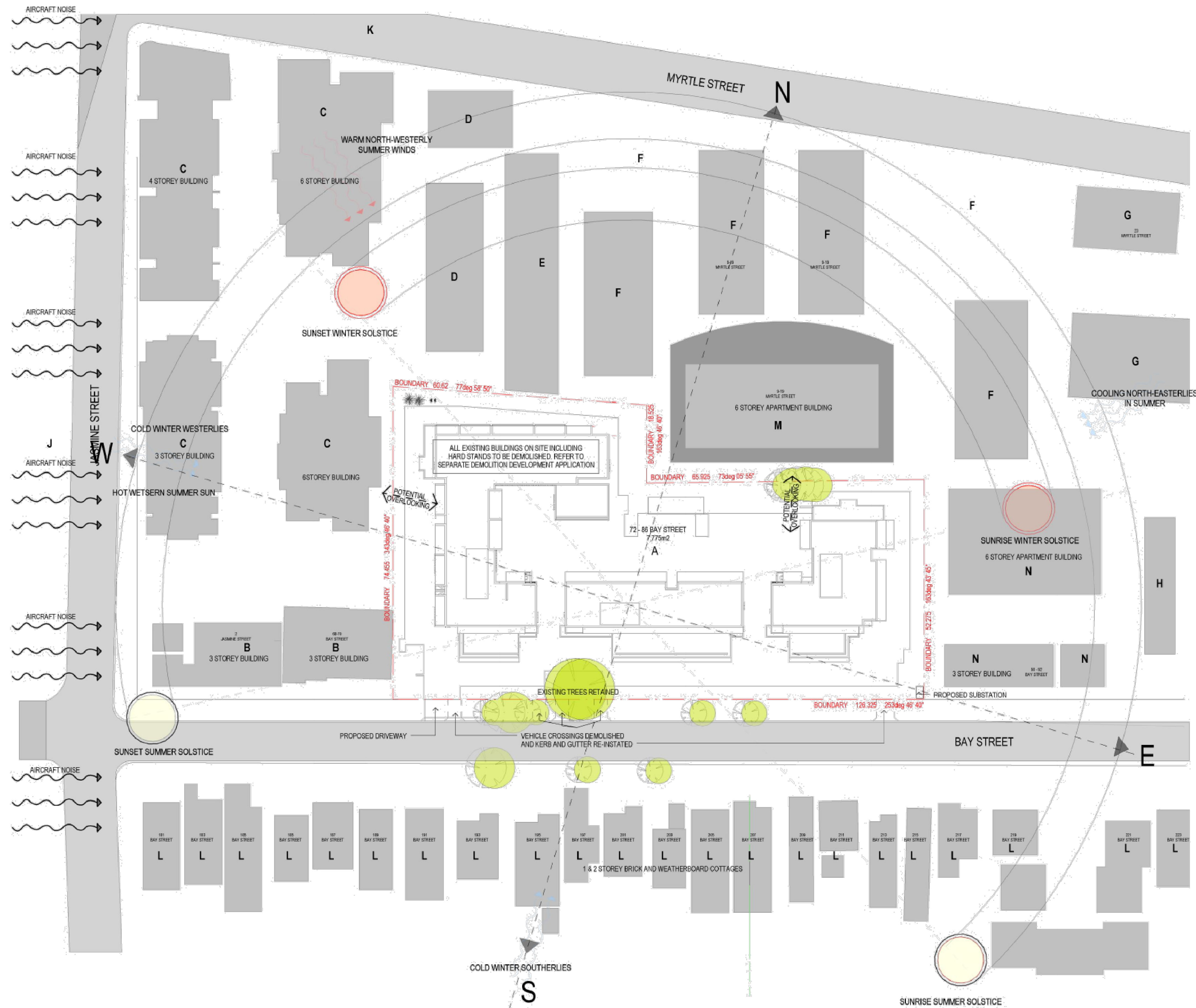
TOWN PLANNING

-Proposed Planning Scheme
-Draft Botany Bay Local Environment Plan (LEP) 2011
-Proposed zoning - R3 Medium Density
-Proposed FSR - 1.65:1 (based on site area)

BUILDING KEY

A. Development Site
B. Existing Townhouses: 3 storey, recently developed townhouses along Bay St
C. Approved Residential Development comprising 3 - 6 storey townhouses and apartments. Application submitted for 7 storey development.
D. Approved 9 townhouse development
E. Existing 1 storey light industrial warehouse
F. Existing 3 storey development
G. Proposed Greenview Park Residential development
H. Light Industrial warehouses
J. Booralee Park recreation facilities
K. Access to Public Pool & Recreational facilities
L. Single detached Residential dwellings with generous & consistent setback to Bay St
M. Existing 5 and 6 storey apartment building
N. Proposed 3 and 6 storey Residential development

Existing tree

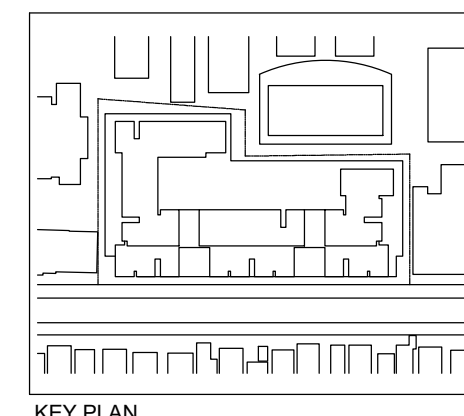


S96 APPLICATION

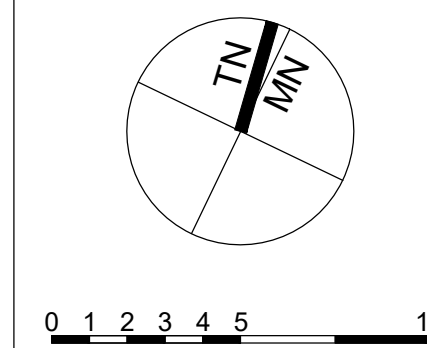
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REVISION	DATE	DESCRIPTION	BY
A	2016.01.29	DEVELOPMENT APPLICATION	HS



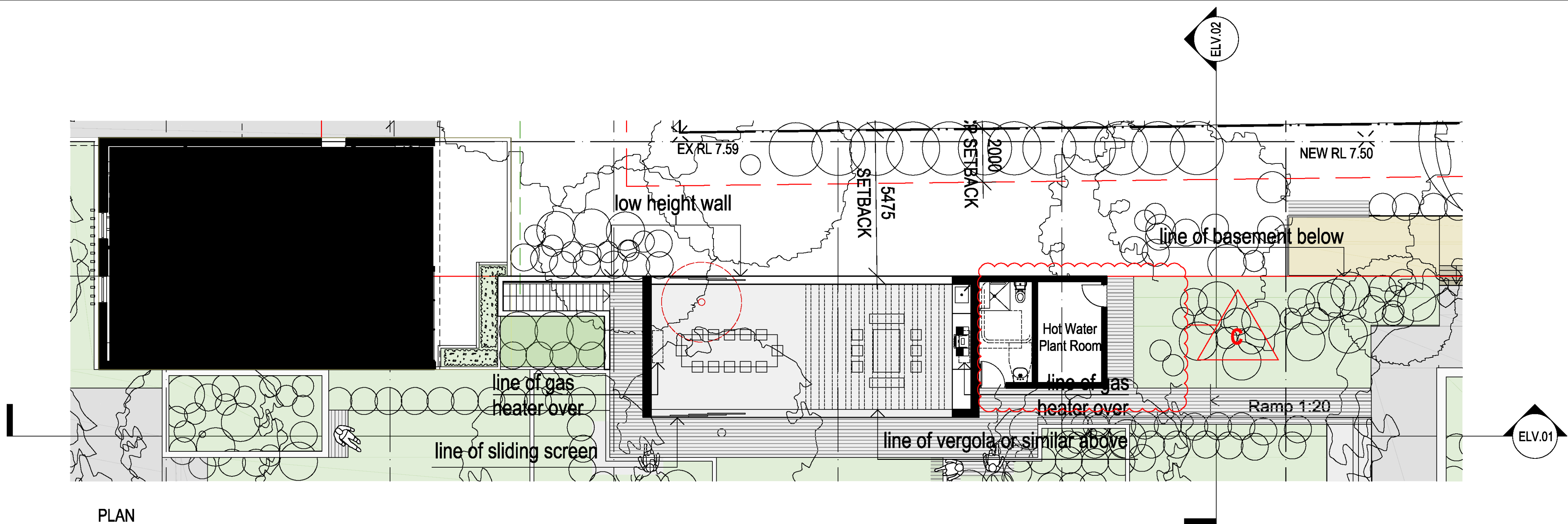
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Level 1, 53 Walker Street, North Sydney, NSW 2060, Australia
P +61 2 9922 4375 F +61 2 9929 5786 E info@marchesepartners.com.au
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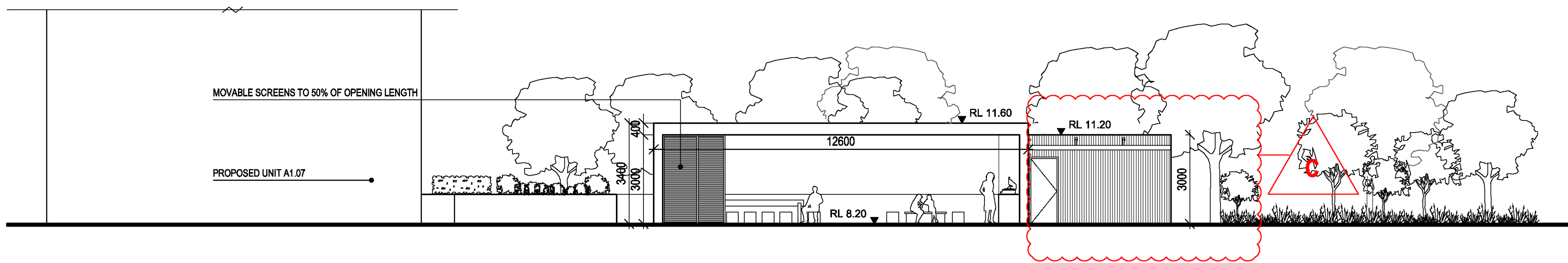
CLIENT
LANDMARK GROUP
SUITE 2201, LEVEL 22, TOWER 2
NO. 101, WESTFIELD, BONDI JUNCTION

PROJECT
ALTERATIONS AND ADDITIONS TO
APPROVED DA 2012/233/1
72-86 BAY STREET APARTMENTS, BOTANY BAY

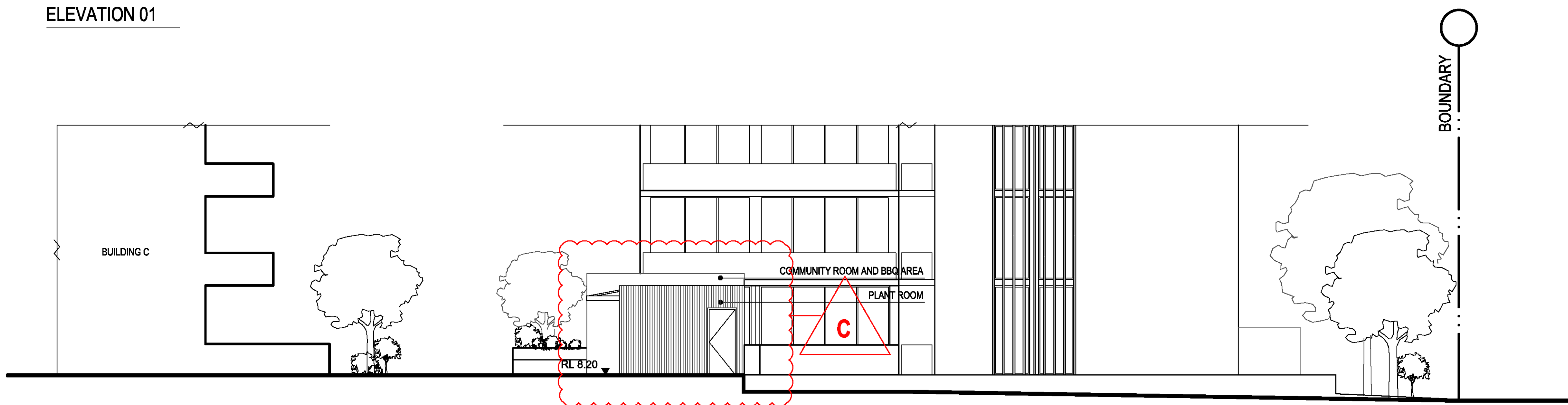
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SITE AND SITE ANALYSIS				
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JOB 15091	DRAWING 0501			



PLAN



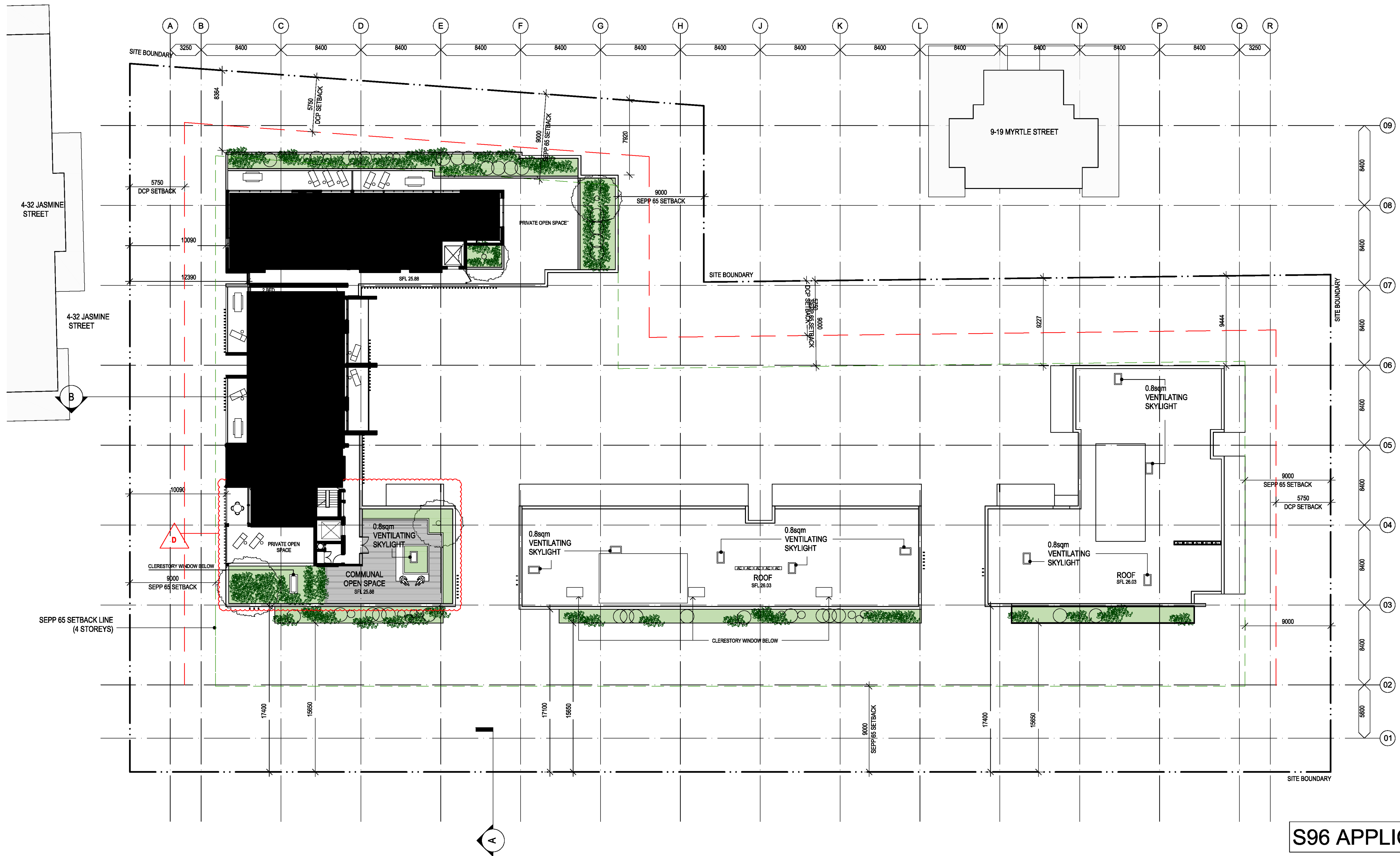
ELEVATION 01



ELEVATION 02

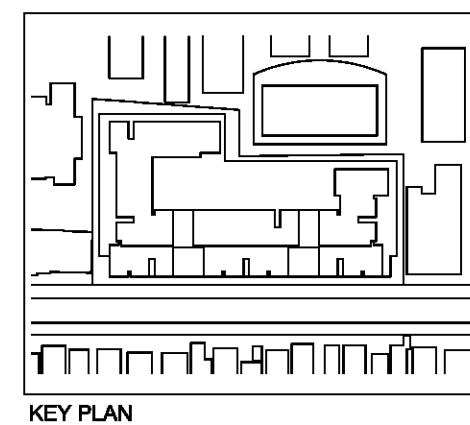
S96 APPLICATION

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	A			2018.08.30	ISSUED FOR S34	HS																																			
	B			2018.09.09	ISSUED FOR S34	HS																																			
	C			2018.12.01	HOT WATER PLANT ROOM ADDED	HS																																			
<div></div> <div>KEY PLAN</div>							<div></div> <div>Marchese Partners International Pty Ltd Level 1, 53 Walker Street, North Sydney, NSW 2060, Australia P +61 2 9922 4375 F +61 2 9929 5786 E info@marchesepartners.com.au www.marchesepartners.com.au Sydney · Brisbane · Canberra · Melbourne · Adelaide · Perth Kuala Lumpur · Auckland ABN 20 098 552 151</div>							<div></div> <div></div>							<div>CLIENT</div> <div>LANDMARK GROUP SUITE 2201, LEVEL 22, TOWER 2 NO. 101, WESTFIELD, BONDI JUNCTION</div>							DRAWING TITLE													
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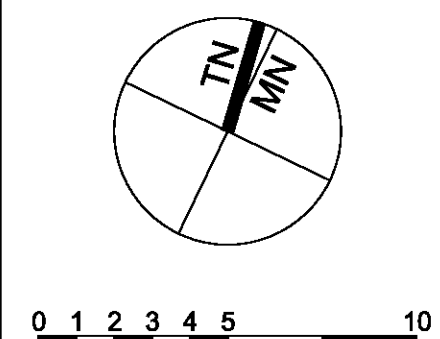
S96 APPLICATION

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PRELIMINARY NOT FOR CONSTRUCTION	REVISION	DATE	DESCRIPTION
	A	2018.01.29	DEVELOPMENT APPLICATION
	B	2018.06.14	1. HIGH WINDOW ADDED TO THE STUDY IN UNIT B7.02 2. CHANGES IN THE LANDSCAPING OF THE COMMUNAL OPEN SPACE AND THE BALCONY OF UNIT A7.01 TO MATCH THE 9M SETBACK LINE 3. REVISED SKL
	C	2018.10.18	UNIT A7.01 & B7.02 LAYOUTS UPDATED COMMUNAL OPEN SPACE REMOVED
	D	2018.12.01	UNIT B7.02 LAYOUTS UPDATED COMMUNAL OPEN SPACE ADDED



marchesepartners

Marchese Partners International Pty Ltd
Level 1, 53 Walker Street, North Sydney, NSW 2060, Australia
P +61 2 9922 4375 F +61 2 9929 5786 E info@marchesepartners.com.au
www.marchesepartners.com.au
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CLIENT LANDMARK GROUP SUITE 2201, LEVEL 22, TOWER 2 NO. 101, WESTFIELD, BONDI JUNCTION	DRAWING TITLE LEVEL 7			
	PROJECT ALTERATIONS AND ADDITIONS TO APPROVED DA 2012/233/1 72-86 BAY STREET APARTMENTS, BOTANY BAY	SCALE 1:200@A1 1:400@A3	DATE 14.06.2016	DRAWN HS
		JOB 15091	DRAWING 0516	CHECKED MS
		REVISION D		



S96 APPLICATION

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REVISION	DATE	DESCRIPTION	BY
A	2016.01.29	DEVELOPMENT APPLICATION	HS
B	2016.06.14	1. CHANGES TO THE LANDSCAPING OF COMMUNAL OPEN SPACE TO MATCH THE SETBACK LINE 2. LIFT OVERRUNS ADDED 3. REVISED SFL	HS
C	2016.10.18	ROOF PLAN UPDATED TO MATCH UNIT A7.01 & B7.02 ON LEVEL 07	HS
D	2016.12.01	ROOF PLAN UPDATED TO MATCH UNIT B7.02 ON LEVEL 07	HS

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Marchese Partners International Pty Ltd
Level 1, 53 Walker Street, North Sydney, NSW 2060, Australia
P +61 2 9922 4375 F +61 2 9929 5786 E info@marchesepartners.com.au
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CLIENT		DRAWING TITLE			
LANDMARK GROUP SUITE 2201, LEVEL 22, TOWER 2 NO. 101, WESTFIELD, BONDI JUNCTION		LEVEL 8 - ROOF PLAN			
PROJECT ALTERATIONS AND ADDITIONS TO APPROVED DA 2012/233/1 72-86 BAY STREET APARTMENTS, BOTANY BAY		SCALE 1:200@A1 1:400@A3	DATE 14.06.2016	DRAWN HS	CHECKED MS
		JOB 15091	DRAWING 0517	REVISION D	

MATERIAL SELECTION REFER TO DRAWING NO.0580
TYPE: A1, A2 + A3 MASONRY ELEMENTS: RENDERED AND PAINTED MASONRY COLOR - 'OFF WHITE'
TYPE: B1 MASONRY ELEMENTS: RENDERED AND PAINTED MASONRY COLOR - CHARCOL
TYPE: C1, C2, C3, C4, C5, C6 + C7 METAL ELEMENTS: COLOR - BRONZE ANODISED
TYPE: D1 + D2 GLAZED ELEMENTS: CLEAR GLASS
TYPE: E1 METAL ELEMENTS: COLOR - CHARCOAL GREY



S96 APPLICATION

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REVISION	DATE	DESCRIPTION	BY
A	2016.01.29	DEVELOPMENT APPLICATION	HS
B	2016.06.01	DEVELOPMENT APPLICATION	HS
C	2016.06.14	- LIFT OVERRUN HEIGHT UPDATED - BUILDING HEIGHT REDUCED BY 100MM	HS
D	2016.10.18	LEVEL 7 ELEVATION UPDATED	HS



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Marchese Partners International Pty Ltd
Level 1, 53 Walker Street, North Sydney, NSW 2060, Australia
P +61 2 9922 4375 F +61 2 9929 5786 E info@marchesepartners.com.au
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CLIENT LANDMARK GROUP SUITE 2201, LEVEL 22, TOWER 2 NO. 101, WESTFIELD, BONDI JUNCTION	DRAWING TITLE ELEVATIONS- EAST & NORTH			
PROJECT ALTERATIONS AND ADDITIONS TO APPROVED DA 2012/233/1 72-86 BAY STREET APARTMENTS, BOTANY BAY	SCALE 1:200@A1 1:400@A3	DATE 14.06.2016	DRAWN HS	CHECKED MS
	JOB 15091	DRAWING 0530		REVISION D

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REFER TO DRAWING NO.0580

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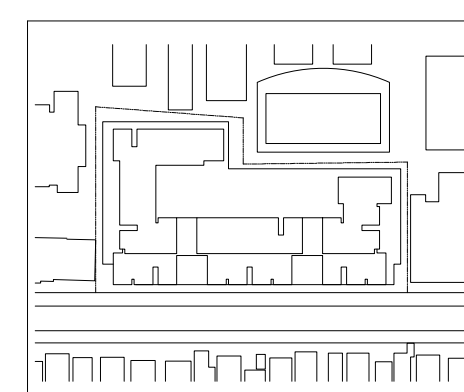
S96 APPLICATION

IMPORTANT NOTES:

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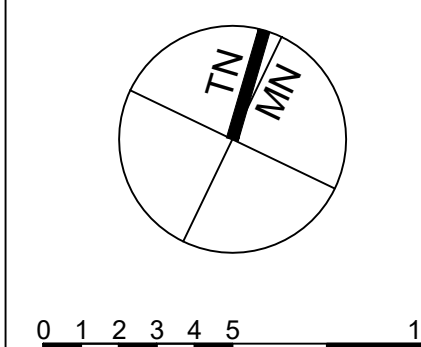
REVISION	DATE	DESCRIPTION	BY
A	2016.01.29	DEVELOPMENT APPLICATION	HS
B	2016.06.01	DEVELOPMENT APPLICATION	HS
C	2016.06.14	- LIFT OVRERRUN HEIGHT UPDATED - BUILDING HEIGHT REDUCED BY 100MM	HS
D	2016.10.18	LEVEL 7 ELEVATION UPDATED	HS
E	2016.12.01	LEVEL 7 ELEVATION UPDATED	HS



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Marchese Partners International Pty Ltd
Level 1, 53 Walker Street, North Sydney, NSW 2060, Australia
P +61 2 9922 4375 F +61 2 9929 5786 E info@marchesepartners.com.au
www.marchesepartners.com.au
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SUITE 2201, LEVEL 22, TOWER 2
NO. 101, WESTFIELD, BONDI JUNCTION

PROJECT
ALTERATIONS AND ADDITIONS TO APPROVED DA 2012/233/1 72-86 BAY STREET APARTMENTS, BOTANY BAY

DRAWING TITLE

ELEVATIONS-WEST & SOUTH + BAY
STREET STREETSCAPE

SCALE 1:200@A1 1:400@A3	DATE 14.06.2016	DRAWN HS	CHECKED MS
JOB 15091	DRAWING 0531		REVISION E

MATERIAL SELECTION REFER TO DRAWING NO.0580	
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TYPE: C1, C2, C3, C4, C5, C6 + C7 METAL ELEMENTS: COLOR - BRONZE ANODISED	
TYPE: D1 + D2 GLAZED ELEMENTS: CLEAR GLASS	
TYPE: E1 METAL ELEMENTS: COLOR - CHARCOAL GREY	



1 Section A
0540



2 Section B
0540 1:200

S96 APPLICATION

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	LANDMARK GROUP SUITE 2201, LEVEL 22, TOWER 2 NO. 101, WESTFIELD, BONDI JUNCTION		SECTIONS								
	PROJECT ALTERATIONS AND ADDITIONS TO APPROVED DA 2012/233/1 72-86 BAY STREET APARTMENTS, BOTANY BAY		SCALE 1:200@A1 1:400@A3	DATE 14.06.2016				DRAWN HS	CHECKED MS		
PRELIMINARY NOT FOR CONSTRUCTION	JOB 15091		DRAWING 0540		REVISION B						

Council Meeting

8/03/2017

Item No	9.5
Property	171 Coward Street, Mascot
Proposal	Partial demolition of the existing rear WC and laundry and construction of ground floor additions to the rear of the existing semi-detached dwelling and internal ground floor re-configuration to create a new kitchen/laundry, bathroom and open plan dining/living area.
Cost of Development	\$150,000
Report by	Christopher Mackey – Team Leader Development Assessment
Application No	2016/170

Council Resolution

Minute 2017/029

Resolved by the Administrator:

- 1 That Council support the variation to the floor space ratio control as contained in Clause 4.4 – Floor Space Ratio in Botany Bay Local Environmental Plan 2013 in accordance with the request under Clause 4.6 submitted by the applicant.
 - 2 That Development Application DA-2016/170 for the partial demolition of the existing rear WC and laundry and construction of ground floor additions to the rear of the existing semi-detached dwelling and internal ground floor re-configuration to create a new kitchen/laundry, bathroom and open plan dining/living area at 171 Coward Street, Mascot be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 subject to the conditions attached to this report.
 - 3 That the NSW Department of Planning and Environment be advised of Council's decision.
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Officer Recommendation

- 1 That Council support the variation to the floor space ratio control as contained in Clause 4.4 – Floor Space Ratio in Botany Bay Local Environmental Plan 2013 in accordance with the request under Clause 4.6 submitted by the applicant.
 - 2 That Development Application DA-2016/170 for the partial demolition of the existing rear WC and laundry and construction of ground floor additions to the rear of the existing semi-detached dwelling and internal ground floor re-configuration to create a new kitchen/laundry, bathroom and open plan dining/living area at 171 Coward Street, Mascot be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 subject to the conditions attached to this report.
 - 3 That the NSW Department of Planning and Environment be advised of Council's decision.
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Site Plan, Floor Plans, Sections Plan and Elevation Plan

[illegible]

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	2016/170
Date of Receipt:	21 September 2016
Property:	171 Coward Street, Mascot Lot 2 in DP 404544
Owner:	Mr B Rabbitt & Mrs L Joyce-Rabbitt
Applicant:	Mr B Rabbitt
Proposal:	Partial demolition of the existing rear WC and laundry and construction of ground floor additions to the rear of the existing semi-detached dwelling and internal ground floor re-configuration to create a new kitchen/laundry, bathroom and open plan dining/living area.
Recommendation:	Approval
Value:	\$150,000
No. of submissions:	Nil
Author:	Christopher Mackey – Team Leader Development Assessment
Date of Report:	8 February 2017

Key Issues

Council received Development Application No. 16/170 on 21 September 2016 seeking consent for the partial demolition of the existing rear WC and laundry and construction of ground floor additions to the rear of the existing semi-detached dwelling and internal ground floor re-configuration to create a new kitchen/laundry, bathroom and open plan dining/living area at 171 Coward Street, Mascot.

The proposed ground floor rear addition will result in an additional 23.8m² of floor area and the proposed FSR will exceed the maximum permitted FSR of 0.5:1 for semi-detached dwellings within “Area 3” of the FSR Map under BBLEP 2013. The applicant has submitted a Clause 4.6 variation to the FSR control. Given the minor nature of the variation and that the proposed development will be consistent with the scale and bulk of other dwellings on Coward Street, the non-compliance is supported in this instance. The existing FSR on site is 0.5:1 and this was approved by Council in 2011, under the former DCP 38, which permitted an FSR up to 0.70:1 for the subject site.

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period from 12 October 2016 to 26 October 2016. No submissions were received.

The development application has been assessed in accordance with the relevant requirements of the Environmental Planning and Assessment Act 1979 and is recommended for approval, subject to conditions of consent.

Recommendation

1. That Council support the variation to the floor space ratio control as contained in Clause 4.4 – Floor Space Ratio in Botany Bay Local Environmental Plan 2013 in accordance with the request under Clause 4.6 submitted by the applicant.
2. That Development Application DA-2016/170 for the partial demolition of the existing rear WC and laundry and construction of ground floor additions to the rear of the existing semi-detached dwelling and internal ground floor re-configuration to create a new kitchen/laundry, bathroom and open plan dining/living area at 171 Coward Street, Mascot be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 subject to the conditions attached to this report.

Background

History

Council approved Development Application No. 10/500 at its meeting on the 6 April 2011 for alterations and additions to the existing semi-detached dwelling including a new first floor addition.

Proposal

The development application seeks Council consent for partial demolition of the existing rear WC and laundry and construction of ground floor additions to the rear of the existing semi-detached dwelling and internal ground floor re-configuration to create a new kitchen/laundry, bathroom and open plan dining/living area at 171 Coward Street, Mascot. The specifics of the proposal are as follows:

Ground Floor

- Demolition of the existing rear WC, laundry and landing;
- Construction of a new rear addition to accommodate an open plan dining room and family room;
- Convert a ground level bedroom into a new bathroom;
- Construct new kitchen and laundry.

Materials of Construction

The proposed development will be constructed using the following materials and colours:

- External wall – face brickwork to match existing;
- Roof sheeting, downpipes and gutter – Klip-lok roofing with fascia and capping;
- Window & Door frames – Silver anodised framed windows and doors.

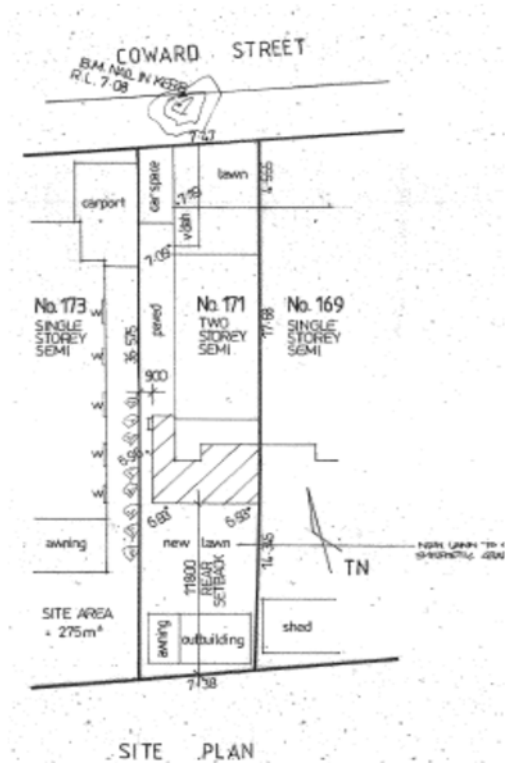


Figure 1 – Proposed Site Plan

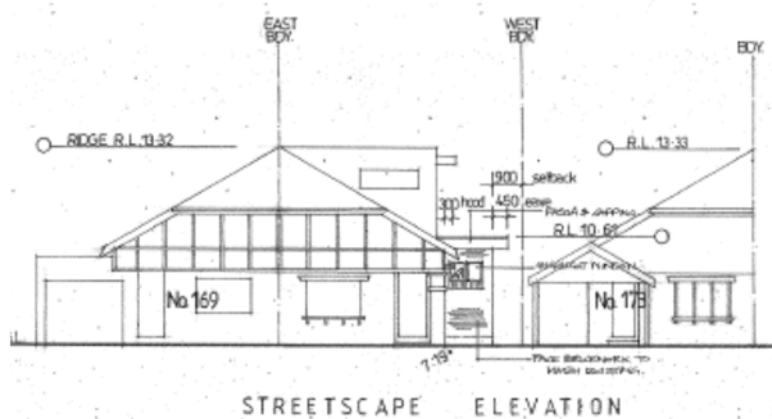


Figure 2 – Proposed North Elevation

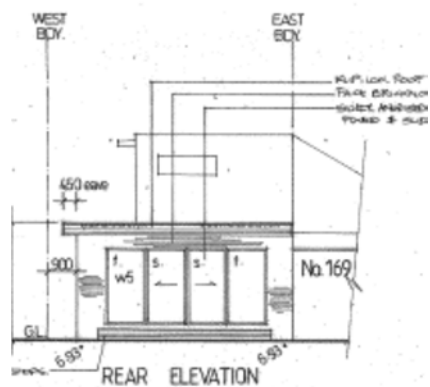


Figure 3 – Proposed South Elevation

Site location and context

The subject site is located on the southern side of Coward Street between Oliver Street to the east and O'Riordan Street to the west. The subject site is rectangular in shape with an area of 280m² and a 7.7 metre frontage to Coward Street. The site is relatively level and is located within the R2 Low Density Residential zone.

An existing semi-detached dwelling and shed are currently located on site. Development surrounding the site consists of residential development south of Coward Street and Mascot Oval to the west. To the north is located the St Catherines' Greek Orthodox Church, the adjoining South Sydney Graphic Arts Club and further north-west the approved Meriton mixed development at 200 Coward Street under construction.

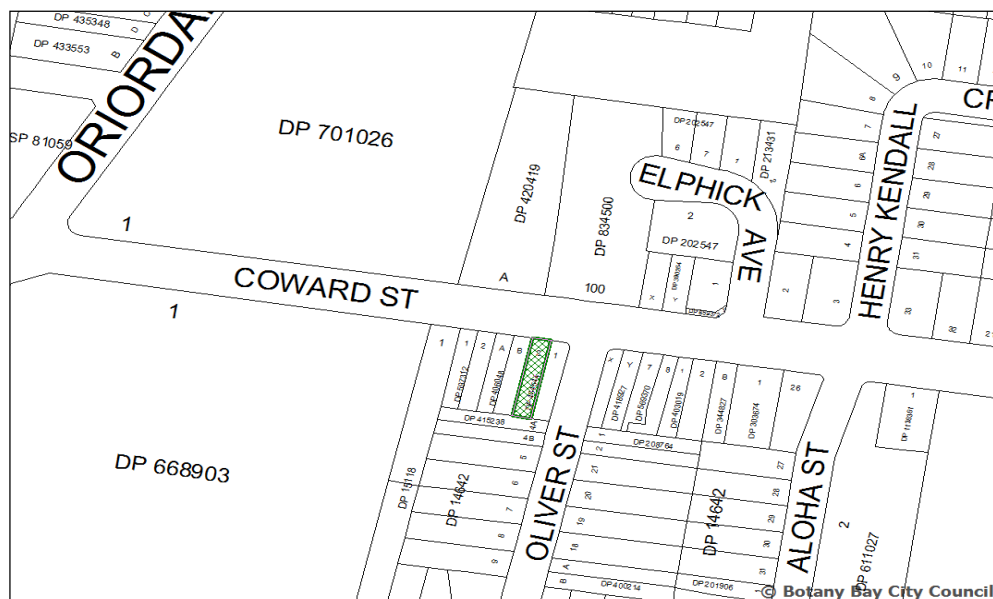


Figure 4. Locality Plan



Figure 5. Aerial map of subject site



Figure 6. Front elevation of subject site (right hand side)

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

S.79C(1) - Matters for Consideration – General

S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate No. A260637 committing to environmental sustainable measures.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the development application, along with the requirements of Part 3K- Contamination of the Botany Bay Development Control Plan 2013. The likelihood of encountering contaminated soils on the subject site is considered to be extremely low given the following:

- 1 The site appears to have been continuously used for residential purposes.

- 2 The adjoining and adjacent properties are currently used for residential purposes.
- 3 The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in State Environmental Planning Policy 55, in particular industrial, agricultural or defence uses.

On this basis, the site is considered suitable in its present state for the proposed residential development. No further investigations of contamination are considered necessary.

Botany Bay Local Environmental Plan 2013

Botany Bay Local Environmental Plan 2013 has been considered in the assessment of the Development Application and the following information is provided:

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Landuse Zone	Yes	The site is zoned R2 Low Density Residential under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use is permissible with Council's consent under the Botany Bay Local Environmental Plan 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the objectives of the R2 Low Density Residential zone which are as follows: <i>To provide for the housing needs of the community within a low density residential environment.</i> <i>To enable other land uses that provide facilities or services to meet the day to day needs of residents.</i> <i>To encourage development that promotes walking and cycling.</i>
Does Schedule 1 – Additional Permitted Uses apply to the site? If so what additional uses are permitted on the site?	N/A	Schedule 1 does not apply to the site.
What is the maximum building height? Does the height of the building exceed the maximum building height?	Yes	A maximum building height of 9m applies to the subject site. The elevations demonstrate that the height of the proposed rear addition is 3.7m, which complies. The existing height of the first floor addition, at 6.2m remains unaltered.
What is the proposed FSR?	No – refer to Note 1	Site area = 275m ² Maximum permitted FSR = 0.50:1

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
		Existing GFA = 137.5m ² Existing FSR = 0.50:1 Proposed Gross Floor Area = 161.3m ² Proposed Floor Space Ratio = 0.58:1
Does the FSR of the building exceed the maximum FSR?	Yes	The proposal exceeds the maximum FSR. Refer to Note 1
Is the site within land marked "Area 3" on the FSR Map? If so, does it comply with the sliding scale for FSR in Clause 4.4A?	N/A	The site is located within Area 3, which states to refer to Clause 4.4A of the Botany Bay Local Environmental Plan. Clause 4.6 variation submitted. Refer to Note 1.
The following provisions in Part 6 of the Local Environmental Plan apply to the development: 6.1 – Acid Sulfate Soils; 6.2 – Earthworks; 6.3 – Stormwater management; 6.8 – Airspace operations; 6.9 – Development in	Yes Yes Yes Yes Yes	 The subject site is affected by Class 4 Acid Sulfate Soils. The proposal does not involve works more than 2 metres below the natural ground surface or works by which the watertable is likely to be lowered more than 2 metres below the natural ground surface. Part 6.1 is therefore satisfied. Regarding excavation of the site, the proposal requires minimal excavation and fill to allow for the footings of the proposed addition. The minor excavation for the footings will not have a detrimental impact on environmental functions and processes, neighbouring uses, or features of the surrounding land. The proposal was reviewed by Council's Engineer, who raised no objection. The proposal indicates guttering for the new dwelling feeding into the existing stormwater system. A maximum building height of 15.42m applies to the site in accordance with the Obstacle Limitation Surface Map. The maximum height of the proposal does not exceed 15.42m and therefore complies with Part 6.8 of the Botany Bay Local Environmental Plan 2013. The subject site is located within the 20-25 Australian Noise Exposure Forecast contour where residential

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
areas subject to aircraft noise.		development is classified as conditional. Therefore, a condition is recommended that requires the proposal to comply with the recommendations of the Australian Standard AS2021-2000, satisfying the provisions of Part 6.9 of the Botany Bay Local Environmental Plan 2013.

Note 1 – Clause 4.6 Variation to the FSR Standard

The site is located within 'Area 3' on the FSR map and therefore Clause 4.4A of the BBLEP 2013 applies to the proposal. The objectives of this clause are as follows:

- a) *To ensure that the bulk and scale of development is compatible with the character of the locality; and*
- b) *To promote good residential amenity.*

Under the LEP Dictionary, and pursuant to Clause 4.4A(3)(d), the proposal is defined as a 'semi-detached dwelling' and not defined as a 'dwelling house' or multi-dwelling' housing, and as such would fall under the category of 'all other development for the purpose of residential accommodation'. Therefore the maximum permitted FSR is 0.5:1. The FSR for a dwelling house on this land is 0.75:1 and for multi-dwelling housing is 0.8:1.

The proposal is for ground floor rear additions and internal reconfiguration of the existing semi-detached dwelling. The site currently has an area of 275m² and is subject to an FSR standard of 0.5:1 as defined within BBLEP 2013. The proposed FSR of 0.58:1 is a departure from the standard by 23.8m² and results in a total gross floor area of 161.3m².

Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the FSR development standard is not expressly excluded from this Clause (Cl 4.6(2)). The applicant has provided a written request justifying the contravention of the Clause 4.4 FSR development standard pursuant to Clause 4.6(3) of BBLEP 2013, which is considered below. The matters for consideration pursuant to Clause 4.6(4) and (5) are also considered below. Clause 4.6 (6), (7) and (8) are not relevant to the current proposal.

In *Wehbe v Pittwater Council* [2007] NSW LEC 827 (*Wehbe*) the Hon. Brian Preston, Chief Justice of the Land and Environment Court, set out a new test (the long-standing 5 part test was set out in *Winten Property v North Sydney* (2001) 130 LGERA 79) in which an objection to a development standard may be well founded:

1. *the objectives of the standard are achieved notwithstanding non-compliance with the standard;*
2. *the underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
3. *the underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
4. *the development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
5. *the zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to*

the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*), the Court established that the construction of Clause 4.6 is such that it is not sufficient for the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, as required by Clause 4.6(3)(b), or for the consent authority to be satisfied that the proposed development is consistent with the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as required by Clause 4.6(4)(a)(ii). The Court outlines, that Clause 4.6 requires that in addition to the requirements listed above, the applicant must also establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as is required by Clause 4.6(3)(a). This may involve reference to reasons 2-5 outlined within *Wehbe*.

The requirements of 4.6(3)(a), 4.6(3)(b), and 4.6(4)(a)(ii) are each addressed separately below:

Cl. 4.6(3)(a) Is the development standard unreasonable or unnecessary in the circumstances of the case?

The applicant has provided the following submission as to why compliance is unreasonable or unnecessary in the circumstances of the case.

Applicant's justification:

"The proposal is consistent with clause 4.4 in the Botany Bay LEP 2013.

The development standard is unreasonable or unnecessary in this case for the following reasons:

- (a) The form of development in the immediate and surrounding area is characterised by single and two storey dwellings with multi storey unit development currently under construction directly opposite and in this regard the proposal is modest in bulk and scale;***
- (b) The proposed addition will be screened by the existing dwelling and will provide greater consistency with neighbouring buildings in the area;***
- (c) The proposal is of a simple contemporary design so as not to detract from the original dwelling and maintain the bulk and scale to a minimum due to its single scale development to the rear;***
- (d) Due to the design and siting to the rear of the existing dwelling, the proposal will have no adverse effect on the street;***
- (e) The proposal, due to its siting and design, will not have any adverse effect on the amenity of adjoining premises as it will comfortably comply with the controls for solar access and privacy;***
- (f) The upgrading of the dwelling to accommodate the growing needs of the occupants will ensure that people will remain in the area and patronise shopping and infrastructure;***

The variation to the development standard is also consistent with the objectives of the R2 Low Density zone in that:

- (a) *The proposed FSR variation does not create an inconsistency with the zone objective as the proposed FSR does not result in a bulk or large scale development.*
- (b) *While the proposed alterations and additions exceed the FSR control, it is considered unreasonable to comply as the area allows an FSR of 0.75:1 for dwellings on the same site.*
- (c) *The provision of additional accommodation is in a sympathetic manner and provides a positive outcome.*

Response:

The underlying objective or purpose of the standard is relevant to the development; however, the non-compliance still meets the underlying purpose as it provides a development that is compatible with the bulk and scale of the existing and future desired character of the locality.

The excess floor space of 23.8m² is compatible with the neighbouring dwellings supporting similar sized additions and will not contribute to the building being unreasonable in bulk or scale. The additional floor space does not encroach on the building setbacks, complies with the height standard and is in keeping with the existing built form and building footprint, which has negligible impact as perceived from the streetscape, having the ground floor rear addition largely concealed behind the existing dwelling.

The restricted FSR is not viable for the development as it will not allow for the provision of good amenity for the residents of the dwelling. The proposed design has also taken into consideration reducing its impacts on the amenity of the adjoining properties in terms of solar access and visual privacy.

If the development was not defined as an 'semi-detached dwelling' and instead defined as a 'dwelling house' or 'multi-dwelling' housing, it would be with permitted FSR of 0.75:1 for the dwelling house and 0.8:1 for multi-dwellings. The proposed floor space would then comply. The 0.5:1 FSR is an anomaly.

As stated above, strict adherence to the FSR standard would preclude any further viable development on this site and thereby the underlying objective of the standard is thwarted. Compliance with the standard is unreasonable and unnecessary in this circumstance given it is consistent with the bulk and scale of other dwellings along the street.

Council notes that there is a variance to the development standard, however, this and other variances have not resulted in the standard being totally abandoned. The variance in this instance is reasonable.

Cl. 4.6.(3)(b) Are there sufficient environmental planning grounds to justify contravening the development standard?

The applicant has not specifically addressed this issue. Notwithstanding this, Council believes there are sufficient environmental planning grounds to justify contravening the FSR development standard for the following reasons:-

- The proposed floor space would comply with the LEP FSR requirements under Clause 4.4(3)(a) and 4.4(3)(b), without a further override under Clause 4.4(3)(d);
- The additional 23.8m² will provide good amenity for the residents of the dwelling and not be perceptible from the streetscape as it will be contained behind the existing dwelling on site;

- The rear addition is would be similar in scale to other rear additions of nearby semi-detached dwellings;
- The rear addition and its existing first floor do not exceed the LEP height control;
- The resulting scale and bulk is consistent with other semi-detached dwellings along Coward Street; and
- Amenity of the adjoining properties will not be adversely affected in terms of solar access and visual privacy.

The proposed variation is supported given that the proposed development provides an acceptable bulk and scale based on the context and topography of the site. The variation fits in with the established character of the street and is not overbearing or out of scale.

CL 4.6(4)(a)(ii) Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

The objectives of Clause 4.4 Floor Space Ratio of the Botany Bay LEP 2013 are:

- *to establish standards for the maximum development density and intensity of land use,*
- *to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
- *to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*
- *to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,*
- *to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- *to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- *to facilitate development that contributes to the economic growth of Botany Bay.*

The proposal is consistent with the objectives of the FSR development standard for the following reasons:

- The proposed density and intensity conform to the character of Coward Street, which is dominated by single and two-storey attached dwellings. As such, the proposal is not out of character along Coward Street;
- The bulk and scale of proposed works will be contained behind the existing dwelling and compatible with similar development on Coward Street; and
- The rear ground floor addition is consistent with established rear setbacks, thereby minimising visible bulk and maintaining an appropriate visual relationship along the streetscape.

The underlying objective or purpose of the standard is relevant to the development; however, the minor non-compliance still meets the underlying purpose as it provides a development that is compatible with the bulk and scale of the existing and future desired character of the Mascot Precinct.

The objectives of the R2 Low Density Residential Zone are:

- *To provide for the housing needs of the community within a low density residential environment.*

- *To enable other land uses that provide facilities or services to meet the day to day needs of residents.*
- *To encourage development that promotes walking and cycling.*

The proposed rear ground floor extension satisfy the objectives of the R2 Low Density Residential Zone in that it is consistent with alterations and additions to a low density residential development. The addition will allow additional habitable area that provides good amenity for the residents of the dwelling without adversely impacting on adjoining dwellings or the streetscape.

It is considered that the proposed development will achieve a suitable outcome for the site in that the proposal will not adversely impact on the visual amenity, privacy or solar access of adjoining neighbours.

Other similar developments exist along Coward Street and as such, the proposed rear ground level extension is not out of character within the immediate area.

For the reasons outlined in this assessment, flexibility can be applied to this development, in this particular instance as it does not result in any adverse amenity impacts to adjoining development.

Public Interest and Public Benefit

The proposed rear ground floor extension is for a minor variation to create additional floor space without compromising the residential amenity of neighbouring properties within a low density residential environment. The proposed development meets the objectives of the zone by providing for the housing needs of the community within a low density residential environment. The extension will not create any material environmental impacts within the vicinity.

As such, the proposed variation is considered to be in the public interest.

Summary

The request to vary the LEP FSR control pursuant to Clause 4.6 control has been assessed in accordance with the provisions of Clause 4.6 and relevant recent case law. The proposal is consistent with the underlying objectives of the standard identified and the applicant's Clause 4.6 request is well founded. On this basis, it is recommended that the development standard relating to the maximum FSR for the site pursuant to Clause 4.4 of the BBLEP 2013 should be varied in the circumstances as discussed above.

S.79C(1)(a)(ii) - Provisions of any Draft EPI's

There are no current Draft EPIs applicable to this development

S79C(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application;

Botany Bay Development Control Plan 2013

The development proposal has been assessed against the controls contained in the Botany Bay Development Control Plan 2013 as follows:

Part 3A – Parking & Access

Control C2 of the Botany Bay Development Control Plan 2013 states that car parking provision shall be provided in accordance with Table 1. Table 1 identifies that dwelling houses with two or more bedrooms are to provide 2 car parking spaces per dwelling.

The development proposes to maintain the existing single car hardstand area and existing paved driveway along the western boundary that can accommodate two or more parked cars, which is compliant with the controls.

Part 3G- Stormwater Management

The proposed development seeks to connect to the existing stormwater system in Coward Street.

Council's development engineer has reviewed this proposed application, and has no objection with the development and has provided conditions to be included within the consent.

Part 3H- Sustainable Design

BASIX Certificate No. A260637 dated 14 September 2016 and prepared by Peter Banfield Design is provided with the application, committing to environmental sustainable measures.

Part 3J – Aircraft Noise and OLS

The subject property is located within the 20-25 ANEF (2033) Contour. In accordance with Council policy it is recommended that the premises be noise attenuated. The measures as detailed in the BASIX Certificate shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics – Aircraft Noise Intrusion – Building, Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000. Relevant conditions have been recommended in the consent relating to aircraft noise intrusion.

Part 3K- Contamination

The relevant requirements and objectives have been considered in the assessment of the development application. The subject site has long been used for residential purposes and contamination is unlikely. Furthermore, the application has been assessed against State Environmental Planning Policy 55 and is found to be satisfactory. Site investigation is not required in this instance.

Part 3L- Landscaping and Tree Management

A Landscape Plan has been submitted as part of the application. The application was referred to Council's Landscape Architect for comment. The proposal, in addition to the required landscaping at ground level proposes a green roof at the rear of the dwelling. Requirements regarding the water use as per control 8 are to be conditioned.

Council's Landscape Architect had no objection to the proposal.

Part 3N- Waste Minimisation & Management

A waste management plan by LW Designs – Architectural Drafting Services has been provided to Council, which addresses the works involved including minor excavation and fill to the site, in addition to the construction of the works proposed.

Part 4A- Dwelling House

The development application has been assessed against the controls contained in *Part 4A of the Botany Bay Development Control Plan – Dwelling House*. The following table compares the proposed development with the relevant provisions of this policy.

Part	Control	Proposed	Complies (Yes/No)
4A.2.4 Streetscape Presentation (semi-detached dwellings)	C22 Where alterations and additions are proposed to a traditional terrace house, no change to the height or form of the roof to the street frontage is permitted. Note: Alterations and extensions behind the roof form will be allowed subject to an assessment of the effect on the adjoining terrace.	The proposed ground floor alterations and additions are confined to the rear of the dwelling, with a minor projection towards the western boundary, which will be visible from Coward Street. The design is compatible with the existing form of the pair of semi-detached dwellings. The two dwellings will integrate with each other.	Yes
4A.2.5 Height	C1 The maximum height of buildings must be in accordance with the Height of Buildings Map and Clause 4.3 of the Botany Bay Local Environmental Plan 2013.	A maximum height of 9 metres applies to the subject site. Existing dwelling: 6.2 metres (to parapet) is to remain unaltered.	Yes
4A.2.6 Floor Space Ratio (FSR)	C1 The maximum FSR of development is to comply with the Floor Space Ratio Map and Clauses 4.4 and 4.4A of the Botany Bay Local Environmental Plan 2013 (refer to Figure 12).	The maximum FSR requirement is 0.5:1. The allotment has a site area of 275m ² Existing GFA: 137.5m ² Existing FSR: 0.50:1 Additional GFA: 161.3m ² Proposed GFA: 23.8m ² Proposed FSR: 0.58:1 The development does not comply with the FSR under the BBLEP 2013 and is discussed in greater detail in Note 1 above.	No – Refer to assessment under BBLEP 2013 for FSR
4A.2.7 Site Coverage	C3 For sites greater than 250m ² the maximum site coverage is 60%.	The site has a total area of 275m ² . The existing site coverage is at 103.24m ² or 38%. The proposed development will have a total covered area of 130.74m ² or 47%, which complies.	Yes
4A.2.8 Building	C1 Dwelling houses must comply with the following minimum setbacks as set	Front setback: The existing 4.5 metre front setback is to be maintained.	

Part	Control	Proposed	Complies (Yes/No)
Setbacks	<p>out in Table 1.</p> <p>Less than 12.5m lot width:</p> <ul style="list-style-type: none"> • Front – comply with prevailing street setback or 6m min. • Side – assessed on merit. • Rear – 4m min. • Eaves – 450mm min from boundary. <p>Note: The subject site has a lot width of 7.47m (northern boundary) and 7.38m (southern boundary).</p>	<p>Side setbacks: The proposed western boundary setback will be 900mm and zero lot setback to the eastern boundary. Both are acceptable for the proposed ground floor level addition.</p> <p>Rear setbacks: The proposed ground floor rear setback is 11.8 metres, which complies.</p>	Acceptable
	<p>C5 To avoid the appearance of bulky or long side walls, side and rear setbacks should be stepped or walls articulated by projecting or recessing window elements, or a variation in materials.</p>	<p>The proposed addition will have a projecting parapet which acts as a 450mm eave towards the western side boundary. A highlight window is proposed on the western elevation to the dining area and a window also on the northern elevation towards Coward Street will provide variation and relief in the facade.</p>	Yes
4A.2.9 Landscape Area	<p>C2 Development shall comply with the following minimum landscaped area requirements outlined in Table 2.</p> <p>Site area 250-350m² = 20%</p>	<p>The site requires 20% of its total area to be landscaping.</p> <p>The development proposes landscaped area of 63m² or 23%.</p>	Yes
4A.3.1 Materials and Finishes	<p>C1 A Schedule of Finishes and a detailed Colour Scheme for the building facade must accompany all Development Applications involving building works (refer to Council's Development Application Guide for further detail).</p>	<p>Schedule of Finishes was submitted with the application and it is proposed that new materials will match existing materials and colours.</p>	Yes
4A.3.2 Roofs and Attics/ Dormers	<p>C2 Flat or skillion roof forms may be located to the rear of a development site provided it is not a corner location and does not detract from the</p>	<p>A skillion roof form is proposed for the rear addition and will not detract from the character of the streetscape.</p>	Yes

Part	Control	Proposed	Complies (Yes/No)
	streetscape.		
4A.3.3 Fences	C7 Fences (or returns) that are higher than 1 metre are not encouraged along residential frontages but may be constructed to a maximum of 1.2 metres provided the top 600mm of the fence is 50% transparent or open style to allow for passive surveillance	There will be no change to the existing front fence.	Maintain existing
	C18 Side fences of a height of 1.8 metres are not to extend beyond the front building line. The side fence is to step or taper to the point where it joins the front fence. Side fences behind the building line must comply with the Dividing Fences Act.	There will be no change to the existing side boundary fences.	Maintain existing
4A.4.1 Visual Privacy	C2 Visual privacy for adjoining properties must be minimised by: a) Using windows which are narrow, or glazing which is translucent or obscured; b) Ensuring that windows do not face directly on to the windows, balconies or courtyards of adjoining dwellings; c) Screening opposing windows, balconies and courtyards; and Increasing sill heights to 1.5 metres above floor level.	The development will not create any significant visual impact onto the neighbouring properties. The rear addition will be built to the side eastern boundary which is acceptable for at least one part of a semi-detached dwelling and the western elevation is proposed to include a highlight window to the dining room. Given the single storey nature of the proposal and the existing screening vegetation within the side setback at No. 173 Coward Street to the immediate west, direct viewing between the two properties is minimised and acceptable.	Yes
4A.4.3 Solar Access	C1 Buildings (including alterations/ additions/ extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows	Given that the site has a north to south orientation with north being the front of the dwelling, no north facing windows will be affected from the proposal. Overshadowing from the proposed rear addition will be minimal from 12 noon and confined to the rear private	Yes

Part	Control	Proposed	Complies (Yes/No)
	in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pools, patios and terraces, and drying areas of both the subject site and adjoining properties.	open space of the subject site, moving east in the afternoon to overshadow the rear private open space of No. 169 Coward Street, however the private open space of both adjoining properties will still maintain 2 hours of solar access on June 21.	
	C2 Solar panels on adjoining houses that are used for domestic needs within that dwelling must not be overshadowed for more than two hours between 9am to 3pm in mid-winter.	There are no solar panels on any of the adjoining sites that will be impacted by the proposed development.	N/A
4A.4.4 Private Open Space	<p>C1 Each dwelling is to have a minimum area of private open space (refer to Figure 26). The private open space area is to:</p> <ul style="list-style-type: none"> (i) Have at least one area with a minimum area of 36m²; (ii) Be located at ground level with direct access to the internal living areas of the dwelling; (iii) Maximise solar access; (iv) Be overlooked by a living room door or window; (v) Be generally level; (vi) Be oriented to provide for maximum year round use; (vii) Grassed with elements of natural landscaping and paving; <p>Located or screened to ensure privacy.</p>	<p>The site proposes 40.32m² of private open space at ground level towards the rear of the dwelling. This space is level and directly accessible from the proposed living room via sliding glass doors and steps.</p> <p>On June 21, this area will be overshadowed at 12 noon by the existing first floor of the dwelling, however will still receive 2 hours of sunlight between 9am and 3pm.</p>	Yes

Part	Control	Proposed	Complies (Yes/No)
	C6 The number of vehicle crossings is to be limited to one (1) per allotment.	One existing vehicular crossing is provided off Coward Street.	As existing
4A.4.7 Vehicle Access	C1 Development must comply with Part 3A – Car Parking . (viii) Table 1. Semi-detached Dwellings – 1 spaces / dwelling	Vehicle access is to be maintained from Coward Street for 2 parked cars.	Yes
4A.4.8 Car Parking	C3 Car parking is to be located at the rear of the site with access from a rear lane. If rear lane access is not possible, parking must be provided behind the front building alignment. For existing and new dwellings, a garage or carport in order of priority must be: (i) Located at the rear of the site with access from a rear lane; (ii) At the rear of the site with access from the street frontage; (iii) Located at the side of the dwelling house, at least 1 metre behind the front building alignment and 5.5 metres from the front boundary; or (iv) Located at the side of the dwelling house, at least 1 metre behind the front building alignment. Note: Refer to Part 4A.6 - Ancillary Development for buildings on rear or side lanes.	There is no rear lane access to the subject site. The existing driveway crossing from Coward Street and the existing front hardstand area and western setback driveway are to be maintained and are capable of accommodating two stacked parked cars.	Yes

Part 8 – Mascot Character Precinct

Part 8.7.1 Desired Future Character of the Mascot Precinct has been considered in the assessment of the application.

The site is located within the R2 Low Density Residential zone of the Mascot Precinct between Oliver Street and O’Riordan Street.

The desired future character relevant to the proposed addition include:

- Encourage site layout, building styles and designs which promote commonality and a visual relationship with the surrounding built form and dwelling styles;
- Encourage new development or alterations and additions to existing development to complement the height and architectural style found in the immediate vicinity, particularly where there is an established character.
- Maintain roof forms to reflect the characteristics if the prevailing designs within the street.
- Encourage dwelling styles that maintain and complement existing development patterns;
- Maintain and enhance low density residential low density residential accommodation in the form of detached/attached dwellings with a maximum height of 2 storeys in the remainder of the precinct;
- Promote urban design and uses that enhance to the character of the area and protect and are sympathetic to the significance of Heritage Items.

The proposed rear ground floor addition has been designed to avoid adverse streetscape impacts and is consistent with the prevailing streetscape character and adjacent dwellings. The dwelling is compliant regarding setbacks, site coverage, private open space, building height, landscaping and solar access to neighbouring sites. As such the proposed works are suitable for the site and are in keeping with the desired future character of the Mascot Precinct as stipulated in Part 8 Character Precincts of Botany Bay Development Control Plan 2013.

S.79C(1)(a)(iv) - Provisions of regulations

Clause 92 of the Regulation has been considered and there are no applicable provisions to the development.

S.79C(1)(b) - Likely Impacts of Development

The development application was referred to Council’s Development Engineer for comment. Appropriate conditions have been imposed on the development consent to address the relevant issues raised. As outlined in the assessment above, the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

S.79C(1)(c) - Suitability of the site

The subject site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered, however, given the nature of the development, and the long standing use of the land for residential purposes, onsite investigation is not warranted.

The site is located within the R2 Low Density Residential and currently accommodates an existing two storey dwelling, which is attached to No. 169 to the immediate east. There is no significant vegetation at the rear of the dwelling that would restrict the proposed additions. Accordingly, the site is suitable to accommodate the development.

S.79C(1)(d) - Public Submissions

In accordance with Part 2 of the Botany Bay Development Control Plan 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period from 12 October 2016 to 26 October 2016. No submissions were received.

S.79C(1)(e) - Public interest

Granting approval to the proposed development will have no adverse impact on the public interest.

Conclusion

Development Application No. 16/170 for the partial demolition of the existing rear WC and laundry and construction of ground floor additions to the rear of the existing semi-detached dwelling and internal ground floor re-configuration to create a new kitchen/laundry, bathroom and open plan dining/living area at 171 Coward Street, Mascot, has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*.

The proposed ground floor rear addition will result in an additional 23.8m² of floor area and the proposed FSR will exceed the maximum permitted FSR of 0.5:1 for semi-detached dwellings within "Area 3" of the FSR Map under BBLEP 2013. The applicant has submitted a Clause 4.6 variation to the FSR control. Given the minor nature of the variation and that the proposed development will be consistent with the scale and bulk of other dwellings on Coward Street, the non-compliance is supported in this instance and the application is recommended for approval subject to conditions of consent in the attached Schedule.

Attachment

Schedule 1 – Conditions of Consent

Premises: 171 Coward Street, Mascot

DA No: 16/170

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

1. The development is to be carried in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Drawing No.	Author	Date received
Architectural Plans, dated 29 August 2016	Peter Banfield Building Design	21 September 2016
Survey Plan, Surveyors Reference No. 7678	CMS Surveyors Pty Ltd	21 September 2016

Reference Document(s)	Author	Date received
Statement of Environmental Effects	Peter Banfield Building Design	21 September 2016

Clause 4.6 Variation Request	-	21 September 2016
Site Waste Management Plan	Peter Banfield Building Design	21 September 2016
BASIX Certificate A260637	Peter Banfield Building Design	21 September 2016

2. This Consent relates to land in Lot 2 in DP 404544 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
3. The following shall be complied with:
 - a) All building work must be carried out in accordance with the provisions of the Building Code of Australia;
 - b) In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:-
 - i) smoke alarms must comply with AS3786 - 1993;
 - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
 - iii) be located in a position as required by Vol 2. BCA.
4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate (as referenced at Condition No. 1) for the development are fulfilled.

Note:

 - a) Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
 - b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
5. The consent given does not imply that works can commence until such time that:
 - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - i) The consent authority; or
 - ii) An accredited certifier; and
 - b) The person having the benefit of the development consent:

- i) Has appointed a principal certifying authority; and
- ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
- iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE

6. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.

7. Prior to the issue of the Construction Certificate the applicant must pay the following fees:

- a) Builders Security Deposit \$3,100.00;
- b) Development Control \$855.00.

8. Prior to the issue of any Construction Certificate, the applicant shall contact “Dial Before You Dig” to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.

Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant’s expense.

9. Prior to the issue of any Construction Certificate, the applicant shall lodge a Builder’s Damage Deposit of \$3,100.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council’s asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.

10. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council’s infrastructure shall be submitted to Council and Principal Certifying Authority.

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council’s infrastructure during the course of this development shall be restored at the applicant’s cost.

11. Prior to the issue of the Construction Certificate, a report is required from a qualified plumber certifying that the existing drainage system, up to where it connects with a Council drainage structure and/or discharges to the groundwater system, is clear of debris and fully operational.

Where the existing system is determined deficient, damaged and/or not operational, a new

system shall be designed and constructed by a suitably qualified Civil Engineer in accordance with Council's Stormwater Management Technical Guidelines (SMTG) & AS 3500.

12. The building shall be constructed in accordance with AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to Principal certifying authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK

13. The Principal Certifying Authority must be satisfied that:
 - a) In the case of work to be done by a licensee under the Home Building Act:
 - i) Has been informed in writing of the licensee name and contractor licence number, and
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or
 - b) In the case of work to be done by any other person:
 - i) Has been informed in writing of the persons name and owner-builder permit number, or
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
14. Prior to the commencement of works, the applicant must inform Council, in writing, of:
 - a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if: -
 - i) A contract is entered into for the work to be done by a different licensee; or
 - ii) Arrangements for the doing of the work are otherwise changed.
15. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
16. Building plans must be lodged through a Sydney Water Tap In Service for approval prior to commencement of works.
17. This Consent shall not preclude the demolisher from giving notice to other statutory

authorities, such as Sydney Water Corporation, WorkCover, etc.

18. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
19. Erosion and sediment control devices shall be installed and in function prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
20. Prior to commencement of any works, relevant application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993: -

(It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
- b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
- c) Permit for roads and footways occupancy (long term/ short term),
- d) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
- e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
- f) Permit to place skip/waste bin on footpath and/or nature strip, and
- g) Permit to use any part of Council's road reserve or other Council lands.

DURING WORKS

21. The proposed development shall comply with the following:
 - a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i) Stating that unauthorised entry to the work site is prohibited;
 - ii) Showing the name of the person in charge of the work site and a te Local Environmental Planhone number at which that person may be contacted outside working hours;

- iii) The Development Approval number; and
 - iv) The name of the Principal Certifying Authority including an after hours contact to Local Environmental Planhone number.
 - b) Any such sign is to be removed when the work has been completed.
22. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
- 23.
- a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -
 - i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
 - ii) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -
 - 1 The additional load on the system; and
 - 2 The relocation and/or adjustment of the services affected by the construction.
 - b) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
24. Should the construction process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.
25. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
26. The approved Waste Management Plan shall be complied with at all times during construction and on-going use of the site.
27. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
- 28.
- a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property;
 - b) Existing structures and or services on this and adjoining properties are not endangered during any excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or

destabilise any adjacent structures.

- c) As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i) Protect and support the adjoining premises from possible damage from the excavation, and
 - ii) Where necessary, underpin the adjoining premises to prevent any such damage.

29. The following shall be complied with during construction and demolition:

a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Interim Construction Noise Guideline and the Protection of the Environment Operations Act 1997.

b) Level Restrictions

- i) Construction period of 4 weeks and under:

The L_{10} sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).

- ii) Construction period greater than 4 weeks and not exceeding 28 weeks:

The L_{10} sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).

c) Time Restrictions

- i) Monday to Friday 07:00am to 05:00pm
- ii) Saturday 08:00am to 01:00pm
- iii) No Construction to take place on Sundays or Public Holidays.

d) Silencing

All possible steps should be taken to silence construction site equipment.

30. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:

- a) construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
- b) Each toilet provided:
 - i) must be standard flushing toilet; and,

- ii) must be connected:
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
- 31. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
 - a) The Soil and Water Management Plan if required under this consent;
 - b) "Managing Urban Stormwater - Soils and Construction" (2004) ('The Blue Book'); and
 - c) Protection of the Environment Operations Act 1997.
- 32. The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.
- 33.
 - a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and,
 - b) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
 - c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
 - d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
 - e) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
- 34. During excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall

be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

35. During construction work the Council nature strip shall be maintained in a clean and tidy state at all times. The nature strip shall be suitably replaced where damaged due to construction work in accordance with Council Specification at the completion of construction, and at the Applicant's expense.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF A OCCUPATION CERTIFICATE

36. Prior to the issue of any Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
37. A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
38. Prior to release of the Occupation Certificate the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
39. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
40. The Council nature strip in Coward Street shall be repaired and/or replaced and maintained in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
41. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

42. Ongoing maintenance of the grass nature strips shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass. Maintenance **does not include** pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time, including new street trees. All pruning is undertaken by Council only.

43. The building is approved as a single dwelling on each site for use and occupation by a single family. It shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent without the prior Consent of the Council.
44. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
45. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975, and AS2201, Parts 1 and 2 - 1978 Intruder alarm systems*.
46. A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
- a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - b) Before 7 am or after 10 pm on any other day.
47. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

48. Air conditioning units are not to be visible from the street or public place and are not to obscure windows/window frames or architectural features of the dwelling. Noise from any air-conditioning units (measured as the LAeq 15 minute) is not to exceed the background level (measured as the LA90 15 minute) by more than 5dBA at any time. The measurement is to be taken at boundary of the property. If the noise from the air conditioner contains any annoying characteristics, the measurements are to be corrected in accordance with the New South Wales Industrial Noise Policy. In addition noise from any air conditioning units are not to be audible within habitable room of other residence before 7am or after 10pm (Monday to Friday) or before 8am or after 10pm (Sat/Sun/Public Holidays).

Note: in order to meet this condition the compressors and any other noise generating part of the air conditioning unit is to be located a sufficient distance from any residential boundary to permit the sound from the unit to decay sufficiently to meet the standard, or enclosed in a

suitable acoustic enclosure.

49. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 16/170 dated as 21 September 2016 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.

Council Meeting

8/03/2017

Item No	9.6
Property	40 Rawson Street, Mascot NSW 2020 <ul style="list-style-type: none">• Lot 25 and 26, Section 2 in DP 4089
Proposal	Demolition of the existing structures and the construction of two x two storey semi-detached dwellings
Cost of Development	\$935,000.00
Report by	Olivia Yana, Development Assessment Planner
Application No	DA-16/119

Council Resolution

Minute 2017/030

Resolved by the Administrator:

- 1 That Council support the variation to the maximum Floor Space Ratio contained in Clause 4.4A(3)(d) of Botany Bay Local Environmental Plan 2013 (BBLEP 2013) in accordance with the Clause 4.6 justification submitted by the applicant.
 - 2 That the Development Application DA-16/119 for the demolition of the existing structures and the construction of two x two storey semi-detached dwellings at 40 Rawson Street Botany be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
 - 3 That the objectors be advised of Council's decision.
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Officer Recommendation

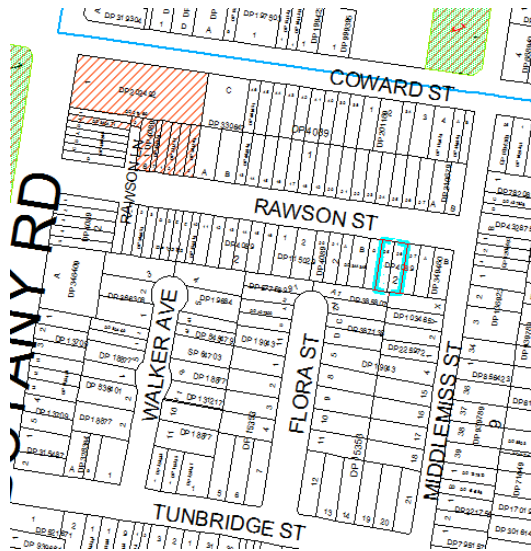
- 1 That Council support the variation to the maximum Floor Space Ratio contained in Clause 4.4A(3)(d) of Botany Bay Local Environmental Plan 2013 (BBLEP 2013) in accordance with the Clause 4.6 justification submitted by the applicant.
 - 2 That the Development Application DA-16/119 for the demolition of the existing structures and the construction of two x two storey semi-detached dwellings at 40 Rawson Street Botany be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
 - 3 That the objectors be advised of Council's decision.
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Attachments

Planning Assessment Report

04, 06, 07 and 08 Shadow Diagrams

Location Plan



BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	2016/119
Date of Receipt:	27 July 2016
Property:	40 Rawson Street, Mascot NSW 2020 Lot 25 and 26, Section 2 in DP 4089
Owner:	Kensword Pty Ltd and Shanel and Vasvi Vasfi
Applicant:	William Karavelas
Proposal:	Demolition of the existing structures and the construction of two x two semi-detached dwellings
Value:	\$935,000.00
No. of submissions:	Three (3) objections
Author:	Olivia Yana, Development Assessment Planner
Date of Report:	16 February 2017

Key Issues

The former City of Botany Bay received Development Application No. 16/119 on 27 July 2016 seeking consent for demolition of the existing structures and the construction of two x two storey semi-detached dwellings at 40 Rawson Street, Mascot.

The application was placed on public exhibition for a fourteen (14) day period from 10 August to 24 August 2016. Three (3) objections were received. One of the objections relates to incorrect parcel details, which has been satisfied through rectification of the plans. The other two objectors were provided with amended plans on separate occasions, and did not withdraw their objections as the objections remained.

Council requested that the applicant provide a Clause 4.6 variation to the FSR, solar access analysis, improve the roof design, increase rear setback, reduce bulk of garages, additional landscaping, resolve party wall issues, maintain visual privacy, minor architectural changes and improve design excellence. This information was provided for consideration on 27 September, and during the period of 23 November to 1 December 2016.

Additional changes to the proposal were received on 10 February 2017, which rectified issues in relation to the design of the front façade.

The main issue is the non-compliance with floor space ratio (FSR). A FSR of 0.5:1 is applicable for semi-detached dwelling houses within the Area 3 zone. The development proposes FSR of 0.79:1, which is a deviation of 65.4m² or 58.7% to the standard. The proposed development will be consistent with the scale and bulk of two storey semi-detached dwellings with similar lot size on Rawson Street and its surroundings, which are consistent with the desired future character of Mascot Character Precinct. Therefore in this instance the FSR is considered acceptable.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval, subject to conditions of consent.

Recommendation

1. That Council support the variation to the maximum Floor Space Ratio contained in Clause 4.4A(3)(d) of Botany Bay Local Environmental Plan 2013 (BBLEP 2013) in accordance with the Clause 4.6 justification submitted by the applicant.
2. That the Development Application DA-16/119 for the demolition of the existing structures and the construction of two x two storey semi-detached dwellings at 40 Rawson Street Botany be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
3. That the objectors be advised of Council's decision.

Background

History

There is no recent development history for the site. It has been used as a dwelling house for many years with no history for the construction of the actual dwelling.

Development Application No. 16/119 on 27 July 2016 seeking consent for demolition of the existing structures and the construction of two semi-detached dwellings. The application was placed on public exhibition for a fourteen (14) day period from 10 August to 24 August 2016. Three (3) objections were received. One of the objections relates to incorrect parcel details, which has been satisfied through rectification of the plans. The other two objectors were provided with amended plans on separate occasions, and did not withdraw their objections as the objections remained.

Council requested that the applicant provide a Clause 4.6 variation to the FSR, solar access analysis, improve the roof design, increase rear setback, reduce bulk of garages, additional landscaping, resolve party wall issues, maintain visual privacy, minor architectural changes and improve design excellence. This information was provided for consideration on 27 September, and during the period of 23 November to 1 December 2016.

Additional changes to the proposal were received on 10 February 2017, which rectified issues in relation to the design of the front façade.

Proposal

The development application, in its amended form, seeks consent for the demolition of the existing structures and construction of two x two storey semi-detached dwellings.

The specifics of the proposal are as follows:

Demolition and Site Clearing

- Demolition of all existing structures on the site including the dwelling house, front fence, garage and fibro shed.

Ground Floor

- Construction of the ground floor for each of the unit will include front fence and porch, single garage, laundry, bathroom, open plan kitchen, dining and family room, and rear unroofed deck;
- Installation of 1,200L Rainwater tanks to be installed along the dividing wall of the rear decks;
- Decorative screen to the eastern side boundary adjacent to the kitchen and 1.8 metres high fence to the western side and rear boundaries; and
- Landscaping works to the front and rear yards, including pavers within the side setbacks.

First Floor

- Construction of four (4) bedrooms (one with ensuite and W.I.R), bathroom and front balcony for each of the dwelling;
- Four (4) skylights over the roof of each of the dwellings.

Materials of Construction

The proposed development will be constructed using the following materials:

- Colorbond roof;
- Rendered masonry balustrade;
- Aluminium windows and sliding doors;
- Timber panelling gable and privacy screening;
- Facebrick and rendered walls;
- Timber garage door; and
- Facebrick with aluminium infill gates and front fence.

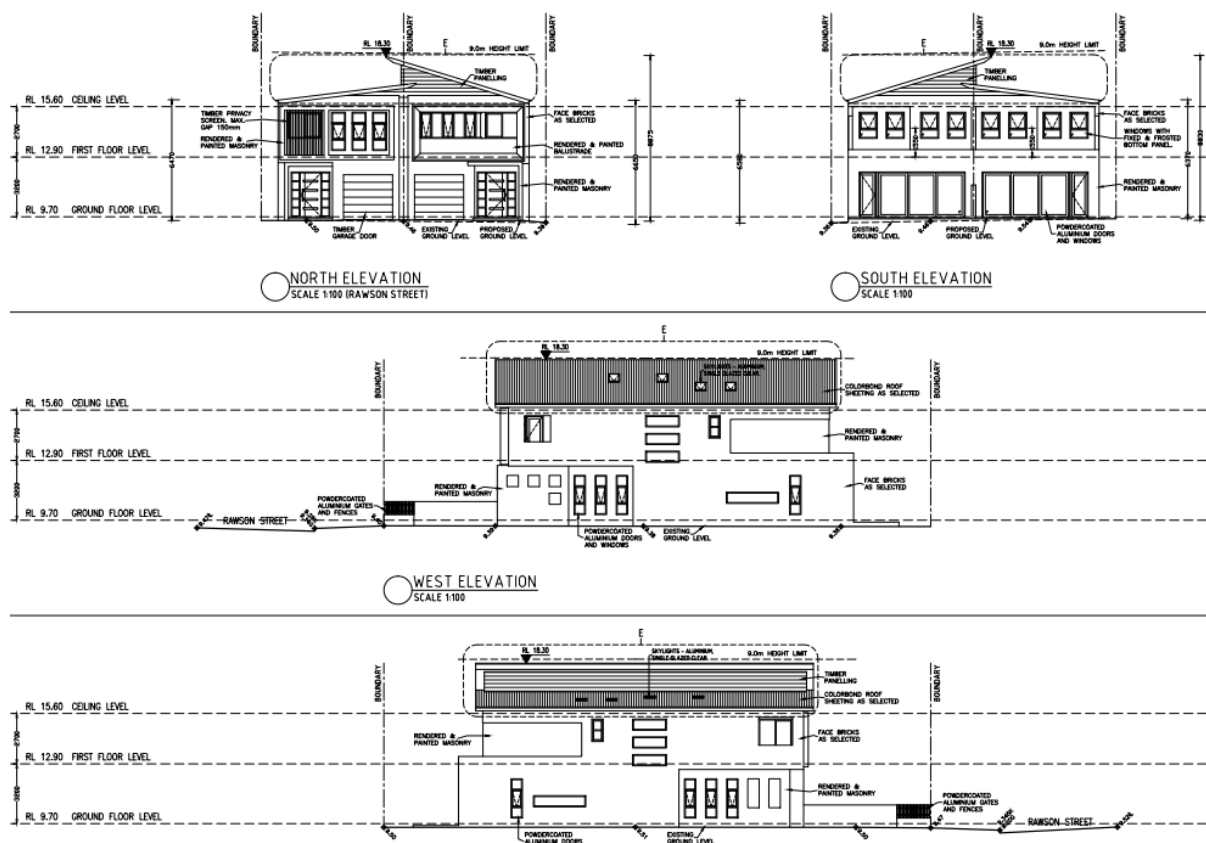


Figure 1. Proposed Elevations

Site Description

The subject site is legally known as Lots 25 and 26, Section 2 in DP 4089 and is located on the southern side of Rawson Street between Coward Street to the north, Middlemiss Street to the east and Botany Road to the west. The land has two (2) lots with north-to-south orientation having north being the front (facing Rawson Street) and south at the rear of the site. The property is situated within an established R2 Low Density Residential zone.

The site has a rectangular shape with a total area of 445.7m² comprising of 222.9m² for Lot 25 and 222.8m² for Lot 26. The site has a combined street frontage width of 15.24 metres and side boundary depths of 29.23 metres on the eastern side and 29.27 metres on the western side. The land topography is relatively flat with gentle slope towards the rear and Rawson Street.

Improvements on the site comprise of a single storey detached brick dwelling with terracotta tiled roof, a fibro shed on the western corner and a single tandem garage along the eastern side boundary accessed by a driveway along the eastern side with access off Rawson Street. The adjoining property to the west at 38 Rawson Street is a single storey brick detached dwelling house and to the east at 42 Rawson Street is a single storey fibro detached dwelling house with part of the rear section attached to the existing garage of the subject property. Surrounding development consists of single storey and two storey detached and attached dwelling houses.

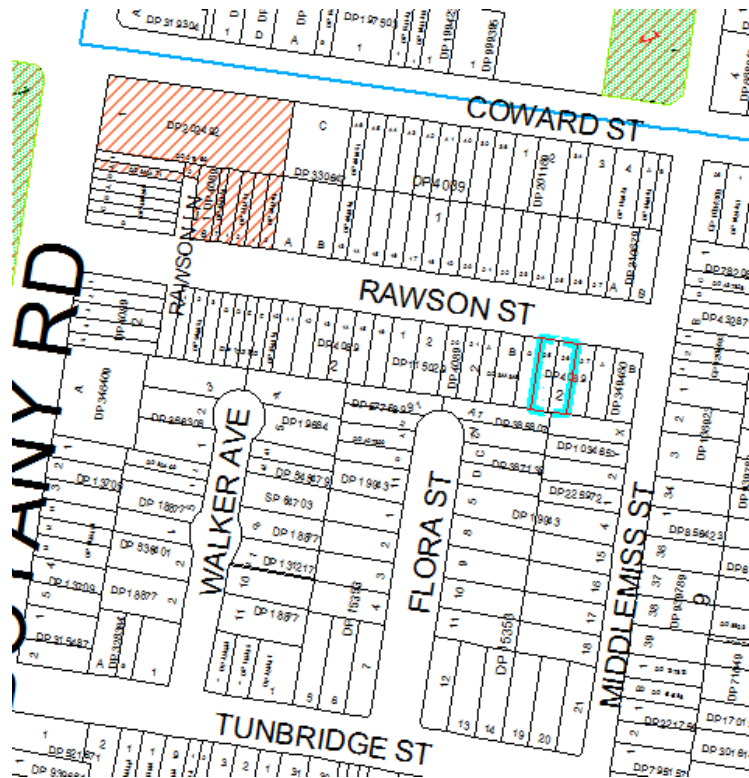


Figure 2. Locality Plan

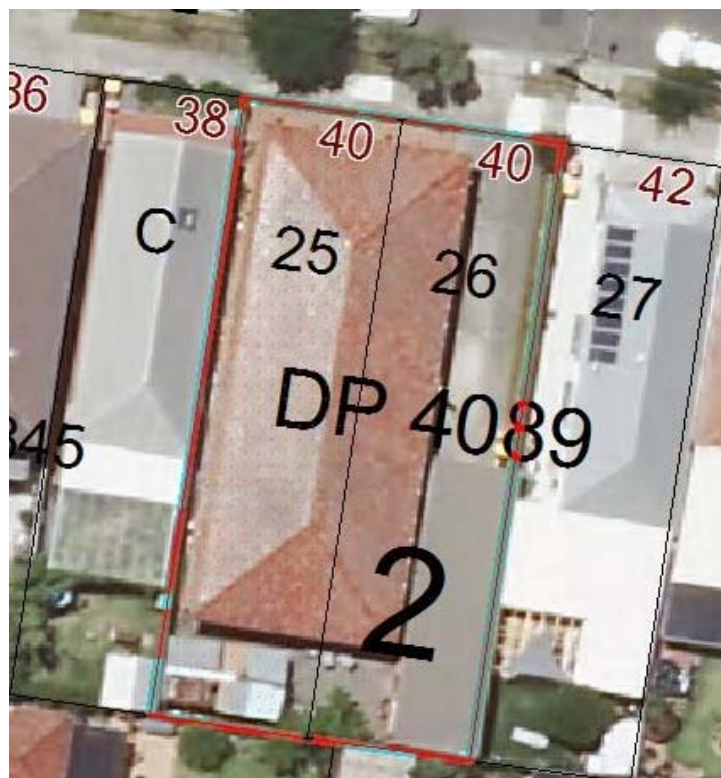


Figure 3. Aerial Map of subject site



Figure 4. Front elevation of the existing dwelling

Referrals

The development application was referred to Council's Health Officer, Building Surveyor, Development Engineer and Landscape Architect for comments. No objections provided subject to appropriate conditions imposed on the development consent.

Statutory Considerations

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

S.79C(1) - Matters for Consideration – General

S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 ("BASIX") applies to the proposed development. The development application was accompanied by BASIX Certificate Nos. 740252S (Dwelling 1) and 740234S (Dwelling 2) both dated 12 July 2016 and received by Council on 27 July 2016 committing to environmental sustainable measures.

State Environmental Planning Policy No. 55 – Remediation of Land

The provisions of SEPP 55 have been considered in the assessment of the development application, along with the requirements of Part 3K- Contamination of the Botany Bay Development Control Plan 2013. The likelihood of encountering contaminated soils on the subject site is considered to be extremely low given the following:

1. The site appears to have been continuously used for residential purposes;
2. The adjoining and adjacent properties are currently used for residential purposes;
3. The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in SEPP 55, in particular industrial, agricultural or defence uses.

On this basis, the site is considered suitable in its present state for the proposed residential development. No further investigations of contamination are considered necessary.

Botany Bay Local Environmental Plan 2013

Botany Bay Local Environmental Plan 2013 has been considered in the assessment of the Development Application and the following information is provided:

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Land use Zone	Yes	The site is zoned R2 Low Density Residential zone under the Botany Bay Local Environmental Plan 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use as semi-detached dwelling houses with existing separate lots is permissible with Council's consent under the Botany Bay Local Environmental Plan 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	<p>The proposed development is consistent with the objectives of the R2 zone which are:</p> <ul style="list-style-type: none"> • <i>To provide for the housing needs of the community within a low density residential environment;</i> • <i>To enable other land uses that provide facilities or services to meet</i>

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
		<p><i>the day to day needs of residents;</i></p> <ul style="list-style-type: none"> <i>To encourage development that promotes walking and cycling.</i>
<p>What is the height of the building?</p> <p>Does the height of the building comply with the maximum building height?</p>	<p>-</p> <p>Yes</p>	<p>A maximum height of 9 metres applies to the subject site.</p> <p>An overall building height of 8.8m is proposed.</p> <p>The maximum height of the dwellings complies with Council's requirements under the Botany Bay Local Environmental Plan 2013.</p>
<p>What is the proposed Floor Space Ratio?</p> <p>Does the Floor Space Ratio of the building comply with the maximum Floor Space Ratio?</p>	<p>-</p> <p>No- Refer to Note 1 below</p>	<p>The maximum Floor Space Ratio requirement is 0.5:1.</p> <p>Lot 25 and Lot 26 have site area of 222.9m² and 222.8m² respectively.</p> <p><u>Lot 25:</u></p> <p>Proposed Gross Floor Area: 176.1m² Proposed Floor Space Ratio: 0.79:1</p> <p><u>Lot 26:</u></p> <p>Proposed Gross Floor Area: 176.8m² Proposed Floor Space Ratio: 0.79:1</p> <p>The Floor Space Ratio for each site does not comply with Council's requirements under the Botany Bay Local Environmental Plan 2013. A Clause 4.6 variation to the FSR Standard has been submitted as part of the proposal.</p>
<p>Is the site within land marked "Area 3" on the Floor Space Ratio Map?</p> <p>If so, does it comply with the sliding scale for Floor Space Ratio in Clause 4.4A?</p>	<p>No- Refer to Note 1 below</p>	<p>The site is located in the 'Area 3' zone. The development does not comply with the maximum Floor Space Ratio Requirement under the Botany Bay Local Environmental Plan 2013 for semi-detached dwellings. Discussion relating to the exceedance in FSR is provided below.</p>

Relevant Clauses Principal Provisions of Botany Bay Local Environmental Plan 2013	Compliance Yes/No	Comment
Is the land affected by road widening?	N/A	The subject site is not affected by road widening.
<p>The following provisions in Part 6 of Botany Bay Local Environmental Plan apply–</p> <ul style="list-style-type: none"> • 6.1 – Acid Sulfate Soils • 6.2 – Earthworks • 6.3 – Stormwater Management • 6.9 – Development in areas subject to aircraft noise 	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>	<p>Class 4 ASS- The likely disruption or effect on the soil conditions, in addition to possible site contamination has been appropriately considered and is found to be acceptable in this instance. As there is no significant excavation, an Acid Sulfate Soil Management Plan is not warranted.</p> <p>The proposal does not involve any significant cut or fill.</p> <p>The proposed development has provided on-site infiltration systems located within the front yard of the development. All stormwater will drain to these systems. Additionally, 1,200L rainwater tank will be installed on each of the dwelling along the rear deck dividing wall.</p> <p>The site is located within the 20-25 ANEF contour and no supporting document has been submitted with the application. The proposal is permissible subject to the construction compliance in accordance with AS2021-2000. A suitable condition is recommended to be included within the consent to ensure that acoustic report is submitted to the Principal Certifying Authority prior to the release of the Construction Certificate with the building plans endorsed complying with the required acoustical measures.</p>

Note 1 – Variation to the Floor Space Ratio Standard

The site is located within 'Area 3' on the FSR map and therefore Clause 4.4A of the BBLEP 2013 applies to the proposal. The objectives of this clause are as follows:

- To ensure that the bulk and scale of development is compatible with the character of the locality; and*
- To promote good residential amenity.*

Pursuant to Clause 4.4A(3)(d), the proposal is defined as a 'semi-detached dwelling' and not defined as a 'dwelling house' or 'multi-dwelling' housing, and as such would fall under the category of 'all other development for the purpose of residential accommodation'. The maximum permitted FSR for a 'semi-detached dwelling' is therefore limited to 0.5:1, instead of having a sliding scale FSR that is determined by the site area in Clause 4.4(3)(a). The permissible FSR for a dwelling house with site area between 200 – 250m² is 0.8:1.

The proposal is for the demolition of the existing structures and the construction of two semi-detached dwellings. The following table demonstrates the relevant lot sizes, the proposed gross floor area and floor space ratio of the two allotments:

Proposed	Lot 25 (40A Rawson Street)	Lot 26 (40B Rawson Street)
Site Area	222.9m ²	222.8m ²
GFA	176.1m ²	176.8m ²
FSR	0.79:1	0.79:1
Variation to Standard	64.65m ² or 58%	65.4m ² or 58.7%

The applicant has provided a Clause 4.6 variation to the floor space ratio development standard which provides justification for the exceedance in gross floor area. Excerpts from the applicant's variation are outlined as follows:

Compliance with the development standard is unreasonable or unnecessary:

"In summary, the objectives of the standard are achieved as follows:

- The scale of the proposed dwellings is consistent with recently constructed residential development in the area;*
- The subject site is consistent with the desired future character of the area and built form controls that apply under the LEP and DCP and from the zone objectives;*
- The development complies with the FSR control for a dwelling house and so it is considered that the scale of the buildings is compatible the desired future character of the locality;*
- The proposed development complies with the required setbacks to ensure an appropriate separation from adjoining dwellings, which as a result of the applicable LEP controls, are unlikely to undergo a substantial transformation in scale of built form but rather be redeveloped in future in a similar manner to the proposed development;*
- The proposed development provides a compliant street setback with suitable landscaping and complies with the maximum height limit for the site to ensure the development will not adversely impact on the streetscape;*
- In terms of daylight access to buildings and the public domain, the proposed FSR non-compliance does not contribute towards any additional overshadowing of the adjoining public domain or neighbouring properties; and*
- Despite the FSR non-compliance, the building provides compliant building setbacks, private open space areas, deep soil areas and building height, thus demonstrating the proposed dwellings are of a size and design that will not have adverse impact on the adjoining properties and provide good amenity for future residents."*

There are sufficient environmental planning grounds to justify contravening the development standard:

"The zone objective overlap to a large extent with the objectives of the FSR control and have been addressed above. Further to that, it is considered that the proposal directly

responds to the housing needs of the community by providing high quality residential development, which is encouraged by the LEP. Having regard to Clause 4.6(3)(b) and the need to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standard, as discussed above it is considered that there is an absence of significant impacts of the proposed non-compliance on the amenity of the future building occupants, on area character and on the neighbouring properties. On "planning grounds" and in order to satisfy that the proposal meets objective 1(b) of Clause 4.6 in that allowing flexibility in the particular circumstances of this development will achieve a better outcome for and from development, it is considered that the proposal provides for a more effective built form outcome for the site than if it were redeveloped with a dwelling house on each lot. The width of the lots precludes the construction of a suitably sized detached dwelling on each lot. The resultant built form in light of required setbacks would be too narrow to achieve a good level of internal amenity. Therefore, the proposal is considered to achieve a planning purpose of enhancing the amenity of each of the two proposed dwellings in the absence of any adverse impacts."

Consent may be granted for the proposal subject to Clause 4.6, notwithstanding that the proposal would contravene this development standard, as the FSR development standard is not expressly excluded from this Clause (CI 4.6(2)). The applicant has provided a written request justifying the contravention of the development standard pursuant to Clause 4.6(3) of BBLEP 2013, which is considered below. The matters for consideration pursuant to Clause 4.6(4) and (5) are also considered below. Clause 4.6 (6), (7) and (8) are not relevant to the current proposal.

In *Wehbe v Pittwater Council* [2007] NSW LEC 827 (*Wehbe*), the Land and Environment Court set out the following 5 different ways in which an objection to a development standard may be well founded:

- 1. The objectives of the standard are achieved notwithstanding non-compliance with the standard;*
- 2. The underlying objective or purpose of the standard is not relevant to the development and therefore compliance is unnecessary;*
- 3. The underlying object of purpose would be defeated or thwarted if compliance was required and therefore compliance is unreasonable;*
- 4. The development standard has been virtually abandoned or destroyed by the Council's own actions in granting consents departing from the standard and hence compliance with the standard is unnecessary and unreasonable;*
- 5. The zoning of the particular land is unreasonable or inappropriate so that a development standard appropriate for that zoning is also unreasonable and unnecessary as it applies to the land and compliance with the standard would be unreasonable or unnecessary. That is, the particular parcel of land should not have been included in the particular zone.*

In *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*), the Court established that the construction of Clause 4.6 is such that it is not sufficient for the applicant to demonstrate that there are sufficient environmental planning grounds to justify contravening the development standards, as required by Clause 4.6(3)(b), or for the consent authority to be satisfied that the proposed development is consistent with the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, as

required by Clause 4.6(4)(a)(ii). The Court outlines, that Clause 4.6 requires that in addition to the requirements listed above, the applicant must also establish that compliance with the development standard is unreasonable or unnecessary in the circumstances of the case, as is required by Clause 4.6(3)(a). This may involve reference to reasons 2-5 outlined within *Wehbe*.

The requirements of 4.6(3)(a), 4.6(3)(b), and 4.6(4)(a)(ii) are each addressed separately below:

Cl. 4.6(3)(a): Is the development standard unreasonable or unnecessary in the circumstances of the case?

Officer's Comment:

The applicant requested a floor space ratio exceedance in a Clause 4.6 variation and stated that the proposal will achieve a better outcome by providing a more effective built form outcome than if it were redeveloped with a dwelling house on each already existing individual lots. Considering the narrowness of the lots width, construction of a suitably sized detached dwelling on each of the lot would not result in a good level of internal amenity. The proposed size and scale of the development is nevertheless compatible with the permitted bulk and scale of the area and the future desired character of the Mascot locality having a low density residential nature. The proposed two storey semi-detached dwellings will maintain an appropriate visual character by complying with the height and scale of two storey dwelling houses along Rawson Street and its vicinity, whilst providing an appropriate correlation of the extent of the development on the site with respect to minimising visual privacy and overshadowing impacts on the adjoining properties. Similarly a recently approved attached dwellings development at 49 Middlemiss Street under DA-14/924 was permitted an FSR of 0.85:1 for lots less than 200m², which is 69.9% variation to the development standard. Compliance with development standard relating FSR within this locality is unreasonable in this circumstance of the case to ensure a sustainable development and a good planning outcome, as it is consistent with the bulk and scale of the other residential dwellings along the street.

Cl. 4.6(3)(b): Are there sufficient environmental planning grounds to justify contravening the development standard:

Officer's Comment:

Clause 4.4 of BBLEP 2013 includes a Floor Space Ratio Map that prescribes a maximum FSR of 1:1 for the subject land. However, dwelling houses, semi-detached dwellings, and attached dwellings are each listed separately within the BBLEP 2013 Dictionary, and separately within the definition for residential accommodation. Given subclause 4.4A(3)(a) refers only to dwelling houses, this clause could not apply to semi-detached dwellings, nor attached dwellings; and therefore, subclause 4.4A(3)(d), relating to all forms of residential accommodation not listed elsewhere within clause 4.4A(3), is the clause which identifies the maximum FSR for the proposal. Subclause 4.4A(3)(d), requires a floor space ratio of 0.5:1, which is lower than what is permitted for dwelling houses, which would be 0.8:1 for sites with an area between 200 – 250m². There is a substantial difference between the permitted FSR for the two forms of residential land use permissible within this locality. As the existing built form on Rawson Street already consists of two storeys dwellings, the proposed development is not of unreasonable bulk and scale, particularly as it does not exceed the maximum floor space for a dwelling house in Area 3 as stipulated by Clause 4.4A(3)(a) of BBLEP 2013. The numerical variation to the FSR will not materially change the streetscape as compared to if the development occurred as detached dwellings. The proposed development is consistent with the surrounding low density residential developments. The

proposed height does not exceed the height of existing two storey dwellings on Rawson Street, and is also compliant with Council's LEP height requirement.

Cl. 4.6(4)(a)(ii): Will the proposed development be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out?

The following matters pursuant to Clause 4.6 also considered:

- Objectives of Clause 4.6;
- Objectives of the Floor Space Ratio Standard;
- Objectives of the R2 Low Density Residential zone;
- Public Interest and public benefit of maintaining the development standard.

Objectives of Clause 4.6

The objectives of Clause 4.6 of the Botany Bay Local Environmental Plan 2013 are:

- a) To provide an appropriate degree of flexibility in applying certain development standards to particular development,*
- b) To achieve better outcomes for and from development by allowing flexibility in particular circumstances.*

Officer's Comments:

Notwithstanding the numerical non-compliance of FSR, the proposal satisfies the objectives of Clause 4.6 and those of the floor space ratio standards as it will facilitate a two x two storey semi-detached dwelling houses within the R2 Low Density Residential zone that generally meets the required desired future character of the Mascot Precinct. The reasons outlined in the applicants Clause 4.6 variation are well founded and flexibility can be applied for as it achieves a better outcome for development in terms of improving internal amenity for the dwellings, ensuring site suitability, minimising the impact of the development on the adjoining properties and maintaining the suitable architectural design that is consistent with the existing surrounding development.

Objectives of the Floor Space Ratio Standard

The objectives of the Floor Space Ratio Standard are:

- a) to establish standards for the maximum development density and intensity of land use,*
- b) to ensure that buildings are compatible with the bulk and scale of the existing and desired future character of the locality,*
- c) to maintain an appropriate visual relationship between new development and the existing character of areas or locations that are not undergoing, and are not likely to undergo, a substantial transformation,*
- d) to ensure that buildings do not adversely affect the streetscape, skyline or landscape when viewed from adjoining roads and other public places such as parks, and community facilities,*
- e) to minimise adverse environmental effects on the use or enjoyment of adjoining properties and the public domain,*
- f) to provide an appropriate correlation between the size of a site and the extent of any development on that site,*
- g) to facilitate development that contributes to the economic growth of Botany Bay.*

Officer's Comments:

The proposed FSR is consistent with the maximum FSR permissible for a dwelling house on lots between 200m² - 250m². The proposed semi-detached dwelling houses are of a similar bulk and scale of surrounding existing two storey dwelling houses on Rawson Street and recently approved attached dwellings at 49 Middlemiss Street. The proposal maintains an appropriate visual relationship with the neighbouring properties and the existing and future character of the area. The proposal is not considered to create adverse impacts on the privacy and views currently experienced by the adjoining sites and the size of the dwellings is similar to what is permitted for single detached dwellings on the proposed allotments.

Objectives of the zone

The objectives of the R2 Low Density Residential zone are as follows:

- *To provide for the housing needs of the community within a low density residential environment;*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents;*
- *To encourage development that promotes walking and cycling.*

Officer's Comments:

The proposed FSR variation will be in keeping with the bulk and scale of low density residential development within the R2 zone and is therefore consistent with the zone objectives in that providing for the housing needs of the community within a low density residential environment.

Public Interest and Public Benefit

The proposed variation to the floor space ratio standard will be in the public interest as it will provide two new semi-detached dwellings on the subject site without adverse impact on the streetscape and the locality. The proposal is consistent with the desired future character of sites along Rawson Street and Mascot Character Precinct as prescribed within Part 8-Character Precinct and Part 4A- Dwelling Houses of the Botany Bay Development Control Plan 2013.

Summary

The request to vary the BBLEP FSR control pursuant to Clause 4.6 has been assessed in accordance with the provisions of Clause 4.6 and relevant case law, being the principles of *Wehbe v Pittwater Council* [2007] NSW LEC 827 and *Four2Five Pty Ltd v Ashfield Council* [2015] NSWLEC 1009 & NSW LEC 90 (*Four2Five*). The proposal is consistent with the underlying objectives of the standard identified.

The proposal and Council's assessment has concluded that compliance with the FSR development standard is unreasonable or unnecessary in the circumstances of the case, and that there are sufficient environmental planning grounds to justify contravening the development standard. The proposal will achieve a better design outcome than if it were redeveloped with a dwelling house on each individual lot. Considering the narrowness of the lots width, construction of a suitably sized detached dwelling on each of the lot would not result in a good level of internal amenity.

The applicant's Clause 4.6 variation is well-founded and the departure in the FSR is compatible with the existing residential development and recently approved development within the locality that is in the public interest. On this basis, it is recommended that the development standard relating to the maximum FSR for the site pursuant to Clause 4.4 of the Botany Bay Local Environmental Plan 2013 should be varied in the circumstances as discussed above.

S.79C(1)(a)(ii) - Provisions of any Draft EPI's

There are no current Draft EPIs applicable to this development

S79C(1)(a)(iii) - Provisions of any Development Control Plan

Botany Bay Development Control Plan 2013

The development proposal has been assessed against the controls contained in the Botany Bay Development Control Plan 2013 as follows:

Part 3A – Parking & Access

Part	Control	Proposed	Complies
3A.2. Parking Provisions of Specific Uses	C2 Semi-detached dwelling house = 1 space	Each dwelling provides a single car garage within the front building footprint. There is direct access to Rawson Street. The driveway on both sites can accommodate an additional parking space within each front yard.	Yes
3A.3.1 Car Park Design	C26 The minimum width of the access driveway at the property boundary shall be:- (i) For dwelling houses: ▪ 3 metres	The width of each of the driveway access is 3 metres.	Yes

Part 3L- Landscaping and Tree Management

The development proposes an adequate amount of landscaping for both sites with areas having an approximate total of 35m² or 15.7% for Lot 25 and 36.3m² or 16.3% for Lot 26 of landscaped area. The applicant has proposed to plant one tree within each front yard- a *Cupaniopsis anacardioides* and a *Plumeria rubra*. Appropriate conditions have been recommended. Some of the other trees and vegetation proposed include *Yucca elephantipes*, *Syzygium austral* 'Elegance' (hedged), *Alcantarea imperialis* 'Rubra' and *Clenanthe setosa* 'Grey Star'.

Part 3N- Waste Minimisation & Management

Waste Management Plan (WMP) for demolition and ongoing was submitted with the application. Conditions are included to ensure all waste generated will be stockpiled, managed and disposed of appropriately.

Part 4A- Dwelling Houses

The development application has been assessed against the controls contained in *Part 4A of the DCP – Dwellings*. The following table compares the proposed development with the relevant provisions of this policy.

Part	Control	Proposed	Complies
4A.2.4 Streetscape Presentation	C3 Dwellings must reflect dominant roof lines and patterns of the existing streetscape.	The proposal will incorporate an angled roof, which is not the predominant roof form along Rawson Street. However, modern roofs, with a form similar to the proposal are provided elsewhere within the located, such as at the corner of Rawson Street and Missenden street.	Yes
	C4 Buildings must address the street.	Both dwellings address the street with the dwellings facing Rawson Street, which includes windows and first floor balconies facing the street.	Yes
	C6 Dwellings front door is to be readily apparent from the street.	Lot 25 and 26 are provided with front entrances that are located off Rawson Street and are readily apparent from the street.	Yes
	C8 Skylights are to be flush with the roof surface and located to the rear of a building.	Skylights are flush with the roof and situated towards the rear of the building.	Yes
	C20 As identified in Figure 5 , the two dwellings that constitute the semi form must be as consistent as possible in scale and material. Note: There are a variety of different architectural designs that can be adopted for first floor additions to semi-detached dwellings, some more traditional	The building architectural design of the semi-detached dwelling is not identical as it is of a contemporary nature. The colours and materials nonetheless are complementary to the contemporary architectural design as viewed from the street-front presentation.	Yes

Part	Control	Proposed	Complies
	and others of a contemporary nature. It is not necessary for the buildings to be identical; however colours and materials should be complementary in the street-front presentation.		
	C21 Roof design must prevent the flow of stormwater onto the adjoining semi.	The pitched roof form adopted is separated by a box gutter that will prevent the flow of stormwater onto the adjoining semi.	Yes
4A.2.7 Site Coverage	C2 For sites between 200 - <250m ² , the maximum site coverage is 65%.	Lot 25 and 26 have site coverage of 55.7% and 54.6% respectively.	Yes
4A.2.8 Building Setbacks	<p>C1 Dwelling houses must comply with the following minimum setbacks as set out in Table 1.</p> <p>Less than 12.5m lot width:</p> <ul style="list-style-type: none"> • Front – comply with prevailing street setback or 6m min. • Side – merit. • Rear – 4m min. • Nil Setback- merit • Eaves- 450mm min. from boundary <p>Note: The subject site has an average lot width of 15.24 metres however Lots 25 and 26 are existing individual lots with street frontage width of 7.62 metres.</p>	<p>Lot 25 Front: <u>Ground floor:</u> 6.7 metres to the garage; 6 metres to front of porch <u>First floor:</u> 6.7 metres to building and balcony</p> <p>Side: <u>Ground floor:</u> 900mm – 1.2 metres <u>First floor:</u> 900mm</p> <p>Rear: <u>Ground floor:</u> 4 metres <u>First Floor:</u> 5.2 – 6.0 metres</p> <p>Eaves: As the dwellings incorporate a skillion roof, eave width of less than 450mm is provided, which is acceptable.</p> <p>Lot 26 Front: <u>Ground floor:</u> 6.4 metres to the garage; 6.8 metres to front of porch <u>First floor:</u> 6.1 metres to building and balcony</p> <p>Side: <u>Ground floor:</u> 900mm – 1.2 metres</p>	Yes, subject to condition

Part	Control	Proposed	Complies
		<p><u>First floor:</u> 900mm</p> <p>Rear: <u>Ground floor:</u> 4.3 metres <u>First Floor:</u> 5.7 - 6 metres</p> <p>Eaves: Although no eaves are proposed, additional condition is recommended to include overhang eaves on the eastern and western sides of the roof.</p>	
	C5 Side and rear setbacks should be modulated to avoid the appearance of bulky or long walls. Side and rear setbacks should be stepped or walls articulated by projecting or recessing window elements.	The first floor is modulated at the front and rear elevations.	Yes
4A.2.9 Landscape Area	<p>C2 Development shall comply with the following minimum landscaped area requirements, based on the area of the site in Table 2.</p> <p>Table 2 requires the following minimum landscaped area:</p> <p>(i) 15% for sites that have an area less than 250m²</p>	<p>The minimum landscaped area for a site within an area less than 250m² is 15%.</p> <p>Lot 25 has a landscaped area of 35m² or 15.7% and Lot 26 has a landscaped area of 36.3m² or 16.3%. All landscaped area on the site (other than the landscaped area within the front setback where the infiltration systems are located) is permeable deep soil planting.</p>	Yes
	C8 The front setback is to be fully landscaped with trees and shrubs and is not to contain paved areas other than driveways and entry paths. Paving is restricted to a maximum of 50% of the front setback area.	The front setback will be completely landscaped with the exception of pavers/stepping stones to accommodate a car parking space and a path to the front entrance.	Yes
	C9 The front setback area must contain at	The street frontage width is less than 11.5 metres	Yes

Part	Control	Proposed	Complies
	least one tree for frontages up to 11.5 metres in width and 2 trees for frontages greater than this and properties located on corner blocks.	therefore 1 tree is required within the front yard of each site. This is provided for within the landscape plan.	
4A.3.1 Materials and Finishes	C1 A Schedule of Finishes and a detailed Colour Scheme for the building facade must accompany all Development Applications involving building works (refer to Council's Development Application Guide for further detail).	A Schedule of Colours and Finishes was provided with the development application.	Yes
4A.3.2 Roofs and Attics/Dormers	C1 Where roof forms in a street are predominantly pitched, then any proposed roof should provide a similar roof form and pitch. Roof pitches are to be between 22.5 degrees and 40 degrees.	The proposal will incorporate an angled roof, which is not the predominant roof form along Rawson Street. However, modern roofs, with a form similar to the proposal are provided elsewhere within the located, such as at the corner of Rawson Street and Missenden street.	Yes, subject to condition
4A.3.4 Fences	C7 Fences (or returns) that are higher than 1 metre are not encouraged along residential frontages but may be constructed to a maximum of 1.2 metres provided the top 600mm of the fence is 50% transparent or open style to allow for passive surveillance.	The proposed front fence will have a maximum height of 1.2 metres to be constructed of masonry with the top 600mm is an open style. Due to the slight slope on the subject site, additional condition is recommended to limit height of fence to 1.2 metres.	Yes, subject to condition
	C18 Side fences of a height of 1.8 metres are not to extend beyond the front building line. Note: Fences with untextured surfaces that present a blank appearance to the street are unsuitable and	The applicant is proposing 1.8 metre high fence with timber paling or colorbond material and a decorative screen on the eastern boundary.	Yes

Part	Control	Proposed	Complies
	discouraged.		
	C19 The maximum height of a rear fence is not to exceed 1.8 metres.	The applicant is proposing 1.8 metre high fence with timber paling or colorbond material.	Yes
4A.4.1 Visual Privacy	C2 Visual privacy for adjoining properties must be minimised by: <ul style="list-style-type: none"> ▪ Using windows which are narrow or glazing ▪ Ensuring that windows do not face directly on to windows, balconies or courtyards of adjoining dwellings ▪ Screening opposing windows, balconies and courtyards; and ▪ Increasing sill heights to 1.5 metres above floor level. 	The upper rear elevation windows are connected to bedrooms, which are low impact use rooms and will be constructed with fixed and frosted glazing on the bottom part of the windows with height of 1.55 metres above the floor level. Visual privacy impact for the adjoining properties is therefore minimised.	Yes
	C3 First floor balconies are only permitted when adjacent to a bedroom.	There is one small balcony proposed for each dwelling facing the street with size approximately 5m ² , which is off the master bedroom. No privacy impact is anticipated from the front balconies.	Yes
4A.4.3 Solar Access	C1 Buildings (including alterations/additions/extensions) are to be designed and sited to maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space areas such as swimming pools, patios and terraces, and drying areas of both the subject site and adjoining properties.	<p>Shadow diagrams, both aerial and elevation, were provided with the development application. The site has a north-south orientation being the front of the property facing north. The proposal will overshadow both of the neighbouring properties at Nos. 38 and 42 Rawson Street windows on the side boundaries.</p> <p>The shadow diagram indicates that 38 Rawson Street contains three windows to the bedroom, living and bathroom along its eastern elevation. The windows to the living and bathroom will be overshadowed by the</p>	Yes

Part	Control	Proposed	Complies
		<p>proposal between 9am to 10am on 21 June and the bedroom window will be impacted by a sliver of overshadowing at 9am. Overshadowing to the living room window has been reduced by shifting the first floor level of dwelling 1 (Lot 25) 300mm further to the southern side. The living room window is therefore partially overshadowed at 10am, and not overshadowed at all at 11am. Given the orientation of the site, it can be concluded that solar access will also be available at 12pm.</p> <p>The shadow diagram indicates that 42 Rawson Street contains four windows to the bedrooms and bathroom along its western elevation. Two bedroom windows and a bathroom window will be overshadowed by the proposal between 1pm to 3pm on 21 June.</p> <p>Overshadowing from the proposed development still satisfies the DCP requirements in maintaining approximately 2 hours of solar access between 9am and 3pm on 21 June to windows in living areas (family rooms, rumpus, lounge and kitchens) and the principal open space of the neighbouring properties.</p>	

Part	Control	Proposed	Complies
	C2 Solar panels on adjoining houses that are used for domestic needs within that dwelling must not be overshadowed for more than two hours between 9am to 3pm in mid-winter.	Although the proposal will impact the solar panels at 42 Rawson Street, the location of the solar panels could receive solar access from the northern and eastern aspects. The shadow diagram also demonstrates that the overshadowing will be contained between 2pm to 3pm on 21 June to an area less than 50% of the solar panels surface. The solar panels will not be overshadowed for more than 2 hours between 9am to 3pm in mid-winter.	Yes
4A.4.4 Private Open Space	C2 For sites less than 250m ² , a minimum area of 25m ² applies.	Both sites have an area less than 250m ² . Lot 25 and 26 each have in excess of 30m ² of private open space.	Yes
	C3 For terraces and decks to be included in calculations of areas for private open space, these must be of a usable size (minimum 10m ²) with one length or width dimension being a minimum of 2 metres, and be accessible from a communal or living area of the dwelling. Note: To be included in a calculation of private open space, decks are not to be located more than 500mm above natural ground level.	The width of deck for each of the dwellings is 2.8 metres.	Yes
4A.4.7 Vehicle Access	C1 Driveways within a property shall have a minimum width of 3 metres.	The proposed driveway width is 3 metres.	Yes
	C6 The number of vehicle crossings is to be limited to one (1) per allotment.	Each of the lots provides a single vehicular crossing.	Yes

Part	Control	Proposed	Complies
4A.4.8 Car Parking	C1 Development must comply with Part 3A – Car Parking	Refer to Part 3A above.	Yes
	C10 Garages, parking structures (carports and car spaces) and driveways are not to dominate the street. Note: Existing situations where garages dominate the street may not be used as a precedent to justify approval of other similar proposals.	The previous garage design has been altered by reducing its width and also balconies and first floor window above, and providing greater front setback. The garages will not dominate the front elevation, as the front façade is further articulated to provide a satisfactory presentation to the street.	Yes

Part 8 – Character Precinct

Part 8.7 Mascot Character Precinct of the BBDCP 2013 has been addressed in the assessment of this application. The section provides a rationale for determining whether the proposal fits into the desired future character for the area.

The site is located within the R2 Low Density Residential zone with a frontage to Rawson Street. Development within the area mainly consists of single and two storey attached, detached and semi-detached fibro and brick dwelling houses. Landscaping in the area includes tree-lined streets and vegetation within varying street setbacks. Access to parking facility is commonly from the street frontage.

The proposal for the demolition of the existing structures on site and construction of a new two storey semi-detached dwelling with garage facing Rawson Street is not likely to result in any undue adverse impacts on the surrounding properties or the locality in regards to overshadowing, bulk and scale, or streetscape impacts as discussed above. The facades of the development are articulated to provide a satisfactory presentation to the street. The ground floor of both of the semi-detached dwellings is located behind the building setback of the first floor which comprises of balconies leading out from the master bedrooms. This design gives a clear distinction between the ground and first floor and does not contribute to a garage dominant streetscape.

The proposed semi-detached dwelling will contribute to the pattern of development in the street and surrounding streets. The proposal will replace a dated residential dwelling and is considered to enhance the public domain and streetscape within the Precinct. The application is considered to be compatible with the desired future character of the Mascot Character Precinct in retaining low density residential development with maximum height of two storeys.

Accordingly, the proposal is considered suitable for the subject site and is considered compatible with the desired future character as described in the BBDCP 2013 for the Mascot Character Precinct.

S.79C(1)(a)(iv) - Provisions of regulations

The proposed development is not inconsistent with the relevant provisions of the *Environmental Planning and Assessment Regulation 2000*.

S.79C(1)(b) - Likely Impacts of Development

As outlined in the assessment above, the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

S.79C(1)(c) - Suitability of the site

The subject site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered, however, given the nature of the development, and the long standing use of the land for residential purposes, onsite investigation is not warranted.

Accordingly, it is considered that the site is suitable to accommodate the development.

S.79C(1)(d) - Public Submissions

In accordance with Part 2 of the Botany Bay DCP 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period from 10 August to 24 August 2016. Three (3) objections were received as part of the proposal. The issues raised in the objections are summarised as follows:

- *Plans and SEE inaccuracies regarding to parcel details and location, elevations discrepancies and shadow diagram;*

Comment: Typographical error has been rectified and amended plans submitted have addressed the inaccuracies.

- *Overshadowing to windows on the side elevation of 38 Rawson Street connected to bedroom, lounge, bathroom and upstairs workspace area will not maintain the minimum 2 hours requirement, loss of view from upstairs workspace window, and privacy impact from the proposed rear windows overlooking the back yard;*

Comment: The upstairs workspace window of 38 Rawson Street has a view of the city skyline that is available from the skylight within the attic area of the adjoining property. The view is shown in the image below. Although not clearly represented in this image, parts of the city skyline can be seen through the trees.



Figure 4. View from neighbouring property

It is considered difficult to protect this view for the following reasons:

- The view is available from a loft window/skylight within a low use room.
- The view is available from an obscured angle; the window faces towards the east, whereas the city skyline is towards the north.
- Generally within Mascot, city views from a two storey building are obscured by low rise development between Mascot and the City, and only the higher portions of the city skyline are viewable. In this instance, the view is also obscured by several trees.

Overshadowing from the proposed development will maintain approximately 2 hours of solar access between 9am and 3pm on 21 June to windows of living areas (including the skylight) and the principal open space of 38 Rawson Street, which complies with Council's DCP requirement. Privacy impact from the rear facing upper level windows has been addressed by proposed installation of fixed and frosted glazing on the bottom part of these windows to the height of 1.55 metres above the floor level. Visual privacy impact for the adjoining properties is therefore minimised.

- *Boundary wall location, driveway sharing and dividing fence issues with 42 Rawson Street;*

Comment: Driveway sharing and dividing fence are civil matters required to be resolved between the adjoining properties. The applicant has provided a supplementary detailed survey plan prepared by W. Buxton Pty Ltd Land and Engineering Surveyors on 24 November 2016, which indicated that the boundary wall and dividing fence are entirely located within Lot 26 of 40 Rawson Street, Mascot. Thus, proposed demolition of the boundary wall and dividing brick fence can be granted under this consent.

- *Overshadowing to solar panels on the west side of 42 Rawson Street roof will reduce the sunlight exposed and render them useless.*

Comment: As discussed above in BBDCP 2013 compliance table, the shadow diagram demonstrates that overshadowing to the solar panels will be contained between 2pm to 3pm on 21 June to an area less than 50% of the solar panels surface and that the solar panels will not be overshadowed for more than 2 hours between 9am to 3pm in mid-winter. Given that the proposed development will have greater front setbacks than 42 Rawson Street, the solar panels will be able to receive direct solar access from the northern and eastern aspects. The solar panels will continue to receive solar access in late morning, midday and in the afternoon, which satisfies the DCP requirement.

S.79C(1)(e) - Public interest

It is considered that granting approval to the proposed development will have no significant adverse impact on the public interest.

OTHER MATTERS

Internal Referrals

The development application was referred to Council's Health Officer, Development Engineer, Landscape Architect and Building Surveyor. No objections are provided to the proposed development subject to conditions of consent.

Section 94 Contributions

The *City of Botany Bay's Section 94 Development Contributions Plan 2016* (the Plan) became effective on 22 June 2016 has been prepared to satisfy the requirements of Division 6 of Part 4 of the Environmental Planning and Assessment Act 1979 (the Act) and the Environmental Planning and Assessment Regulation 2000 (the Regulation), enabling a consent authority or an accredited certifier to levy contributions from development for the provision of public amenities and public services. The Plan applies to all development applications lodged before the commencement of this Plan, but not yet determined. The subject DA was lodged before the commencement of the Plan and is not yet determined and as such is applicable.

Contribution Rates

1 x New 4 Bedroom dwellings: \$21,981.87
1 x New 4 Bedroom dwellings: \$21,981.87
Total Contribution: \$43,963.74

Credit

Since there is an existing dwelling house on the existing lot, the applicant is entitled to a credit. The credit applies to the smaller of the new dwellings. The dwellings are the same size therefore a credit applies to one dwelling.

Credit applicable: \$21,981.87

Subtotal: \$43,963.74 - \$21,981.87= \$21,981.87

As the contribution rate for each dwelling is over \$20,000.00, the section 94 contribution rate is capped at \$20,000.00

Total contribution

The total Section 94 Contribution applicable to the proposed development is **\$20,000.00**

Conclusion

Development Application No.16/119 for the demolition of the existing structures and the construction of two x two storey semi-detached dwellings at 40 Rawson Street, Mascot, has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*.

Exceedance of proposed Floor Space Ratio is acceptable as it does not surpass the maximum floor space ratio allowable for a dwelling house and it is Council's desired future character for development of this nature to occur. The development complies with the remainder of the Local Environmental Plan and Development Control Plan requirements. Therefore, the development is recommended for approval, subject to conditions of consent.

Attachment

Schedule 1 – Conditions of Consent

Premises: 40 Rawson Street, Mascot

DA No: 16/119

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

1. The development is to be carried in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Drawing N°	Author	Dated Received
DA02 Issue E – Site/Ground Floor Plan	Cornerstone Design	Dated: 14 February 2017 Received by Council: 14 February 2017
DA03 Issue E – First Floor Plan/Roof Plan		Dated: 11 February 2017 Received by Council: 13 February 2017
DA04 Issue F - Elevations		Dated: 14 February 2017 Received by Council: 14

		February 2017
DA05 Issue C – Section and Streetscape Elevation		Dated: 11 February 2017 Received by Council: 13 February 2017
Landscape Plan Rev A	Zenith Landscape Designs	Dated: 12 July 2016 Received by Council: 27 September 2016

Documents	Author	Date Received
Waste Management Plan (Construction, Demolition and Ongoing)	N/A	Undated Received by Council: 27 July 2016
Photomontage Issue D	Cornerstone Design	Undated Received by Council: 28 November 2016
Statement of Environmental Effect	Planning Ingenuity	Dated: July 2016 Received by Council: 27 July 2016
Clause 4.6 Variation Statement		Dated: 26 September 2016 Received by Council: 27 September 2016
Addendum to Clause 4.6		Dated: 30 November 2016 Received by Council: 30 November 2016
Site and Roof Drainage Plan Issue A	United Consulting Engineers Pty Ltd	Dated: 4 July 2016 Received by Council: 27 July 2016
Plan of Levels and Details	W Buxton Pty Ltd	Dated: 24 April 2016 Received by Council: 27 July 2016
Survey Report – western boundary		Dated: 24 November 2016 Received by Council: 1 December 2016
BASIX Certificate No. 740252S	Max Brightwell	Dated: 12 July 2016 Received by Council: 27 July 2016
BASIX Certificate No. 740234S		
Schedule of Finishes Amend C	N/A	Undated Received by Council: 19 January 2017

No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.

Where there is any inconsistency between the approved plans, the plans prepared by Cornerstone Design shall prevail.

2. This Consent relates to land in and, as such, building works must not encroach on to adjoining lands or the adjoining public place.
3. The following shall be complied with:
 - a) All building work must be carried out in accordance with the provisions of the

Building Code of Australia;

- b) In accordance with Clause 94 *Environment Planning & Assessment Regulation 2000*, an automatic smoke detection and alarm system for early warning of occupants must be installed in the building (dwellings). The installation must satisfy the following:-
 - i) smoke alarms must comply with AS3786 - 1993;
 - ii) smoke alarms must be connected to the consumer mains power where consumer power is supplied to the building; and
 - iii) be located in a position as required by Vol 2. BCA.
- 4. Pursuant to clause 97A(3) of the *Environmental Planning & Assessment Regulation 2000*, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificates (as referenced in Condition No. 1) for the development are fulfilled.

Note:

- a) Relevant BASIX Certificate means:
 - i) A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under Section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or
 - ii) If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.
- b) BASIX Certificate has the meaning given to that term in the *Environmental Planning and Assessment Regulation 2000*.
- 5. The consent given does not imply that works can commence until such time that:
 - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:-
 - i) The consent authority; or,
 - ii) An accredited certifier; and
 - b) The person having the benefit of the development consent:-
 - i) Has appointed a principal certifying authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and
 - iii) The person having the benefit of the development consent has given at least 2 days notice to the council of the persons intention to commence the erection of the building.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE DEMOLITION OF ANY

BUILDING OR STRUCTURE

6. The demolisher shall lodge with Council, and at least forty-eight (48) hours prior to the commencement of work:-
 - a) Written notice, indicating the date when demolition of the building is to commence.
 - b) This person's full name and address.
 - c) Details of Public Liability Insurance.
7. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
8. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.
9. Prior to the commencement of demolition work a licensed demolisher who is registered with WorkCover NSW must prepared a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy shall be sent to Council (if it is not the PCA). A copy of the Statement shall also be submitted to WorkCover NSW.

The statement must be in compliance with AS2601:2001 – 'The Demolition of Structures', the requirements of WorkCover NSW and conditions of the Development Approval, and shall include provisions for:

- a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";
- b) Induction training for on-site personnel;
- c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);
- d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;
- e) Disconnection of Gas and Electrical Supply;
- f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;
- g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;
- h) Waterproofing of any exposed surfaces of adjoining buildings;
- i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the "Protection of the Environmental Operations Act 1997";

- j) Working hours, in accordance with this Development Consent;
 - k) Confinement of demolished materials in transit;
 - l) Proposed truck routes, in accordance with this Development Consent;
 - m) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995".
 - n) Sewer – common sewerage system.
10. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Councils road reserve must also have prior approval of Council.
11. Any material containing asbestos found on site during the demolition process the shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation;
 - d) DECC Waste Classification Guidelines 2008.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF CONSTRUCTION CERTIFICATE

12. Prior to the issue of a Construction Certificate, detail design and construction plans in relation to the habitable areas shall be submitted to the Principal Certifying Authority for approval. The plan shall incorporate but not limited to:
- a) The maximum height of front fence shall be limited to 1.2 metres.
13. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
14. Prior to the issue of any Construction Certificate, the applicant must pay the following fees:-
- | | |
|--|-----------------------------------|
| a) Builders Security Deposit
below) | \$13,400.00 (see Condition No. 15 |
| b) Development Control | \$1,260.00 |
| c) Section 94 Contributions
below) | \$20,000.00 (see Condition No. 16 |

15. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of **\$13,400.00** (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.
16. The payment of the following monetary contributions in accordance with Council's Section 94 Contributions Plan 2016. This result is a total contribution of **\$20,000.00**, to be paid to Council prior to the issue of the Construction Certificate.

Note: The Section 94 Contributions are subject to quarterly review and the current rates are applicable for the quarter year in which your consent is granted. If you pay the contribution in a later quarter you will be required to pay the indexed contribution applicable at the time.

17. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, a full photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and the Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the road, kerb, gutter, footpath, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so will result in the applicant being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.
18. Prior to the issue of the Construction Certificate, the applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for, and adjacent to, the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and construction works shall be restored or repaired at the applicant's expense.
19. Prior to the issue of any Construction Certificate, all driveways/access ramps/vehicular crossings shall conform to the current Australian Standards AS 2890.1 and Council's Infrastructure Specifications. These include but are not limited to E-01, E-04, E-07 and E-16.

As part of this development, a new concrete driveway shall be constructed. A new three (3) metre wide driveway layback shall be constructed as part of the new driveway. A minimum of one (1.0) metre of kerb and gutter either side of the driveway layback shall be replaced to enable the correct tie-in with the existing kerb and gutter.

20. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority for approval. *(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)* The plans shall incorporate measures such as:
 - a) Provisions made in the Stormwater Management Plans by United Consulting Engineers dated 26 September 2016.

21. The building shall be constructed in accordance with *AS2021- 2000: Acoustics, Aircraft Noise Intrusion, Building Siting and Construction*, the details of which must be prepared by a practicing professional acoustical consultant. The report shall be submitted to Principal certifying authority prior to the release of the Construction Certificate and the building plans endorsed with the required acoustical measures.

The measures required shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion - Building Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000 shall be incorporated into the construction of the building.

The work detailed in the report includes:

- a) Appropriate acoustic glazing to stated windows and doors,
- b) Detailed roof and ceiling construction,
- c) Wall and ceiling corner details and,
- d) External door specification,
- e) Acoustically treated mechanical ventilation.

Note: In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do it will require consideration of the noise from the air conditioner (advice concerning noise from air conditioners is attached below).

22. Prior to the issue of Construction Certificate, the applicant is to submit payment for a Street Tree Planting Bond of \$450 to ensure the installation and establishment of a street tree in accordance with Condition 3 and Councils Street Tree Master Plan. Establishment includes watering for a period of six months following installation. The duration of the Bond shall be limited to a period of 6 months after Council approval of the planted tree. At the completion of the 6 month period the Street Tree Planting Bond shall be refunded pending a satisfactory inspection by Council. If the tree was found to be in decline, damaged, dead, excessively pruned or removed then all or part thereof of the bond shall be forfeited to allow Council to replace or maintain the tree.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK

23. The Principal Certifying Authority must be satisfied that: -
- a) In the case of work to be done by a licensee under the Home Building Act: -
 - i) Has been informed in writing of the licensee name and contractor licence number, and;
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
 - b) In the case of work to be done by any other person: -

- i) Has been informed in writing of the persons name and owner-builder permit number, or;
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.
- 24. Prior to the commencement of works, the applicant must inform Council, in writing, of:
 - a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if: -
 - i) A contract is entered into for the work to be done by a different licensee; or
 - ii) Arrangements for the doing of the work are otherwise changed.
- 25. The site to which this approval relates must be adequately fenced or other suitable measures employed that are acceptable to the Principal Certifying Authority to restrict public access to the site and building works. Such fencing or other measures must be in place before the approved activity commences.
- 26. Building plans must be lodged through the 'Sydney Water Tap In' Service for approval prior to commencement of works.
- 27. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
- 28. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
- 29. Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the *Protection of the Environment Operations Act 1997*.

a) Level Restrictions

Construction period of 4 weeks and under:

the L₁₀ sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20 dB(A).

Construction period greater than 4 weeks and not exceeding 26 weeks:

the L₁₀ sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).

b) Time Restrictions

Construction/demolition work shall be limited to the following hours:

Monday to Friday: 07:00 am to 05:00 pm

Saturday: 08:00 am to 01:00 pm

No Construction to take place on Sundays or Public Holidays.

c) Silencing

All possible steps should be taken to silence construction site equipment.

30. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:

a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;

b) Each toilet provided:

i) must be standard flushing toilet; and,

ii) must be connected:

1 to a public sewer; or

2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,

3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.

c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.

31. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993 as appropriate: -

(It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

a) Permit to erect hoarding on or over a public place, including Council's property/road reserve

b) Permit to construction works, place and/or storage building materials on footpaths, nature strips

c) Permit for roads and footways occupancy (long term/ short term)

d) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve

- e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever
 - f) Permit to place skip/waste bin on footpath and/or nature strip
 - g) Permit to use any part of Council's road reserve or other Council lands.
32. Erosion and sediment control devices shall be installed prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the Protection of Environment Operations Act 1997 and the Department of Environment, Climate Change and Water guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

DURING WORKS

33. The proposed development shall comply with the following:
- a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i) Stating that unauthorised entry to the work site is prohibited;
 - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - iii) The Development Approval number; and
 - iv) The name of the Principal Certifying Authority including an after hours contact telephone number.
 - b) Any such sign is to be removed when the work has been completed.
34. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:
- a) Protection of site workers and the general public.
 - b) Erection of hoardings where appropriate.
 - c) Asbestos handling and disposal where applicable.
 - d) Any disused service connections shall be capped off.
 - e) The disposal of refuse is to be to an approved waste disposal depot.
- 35.
- a) To ensure that utility authorities and Council are advised of any effects to their

infrastructure by the development, the applicant shall: -

- i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
 - ii) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -
 - 1 The additional load on the system; and
 - 2 The relocation and/or adjustment of the services affected by the construction.
 - b) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.
36. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.
37. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.
38. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.
- 39.
- a) All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property;
 - b) Existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piercing, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
 - c) As the development involves an excavation that extends below the level of the base of the footings of a building on adjoining land, the person having the benefit of the development consent must, at the person's own expense:
 - i) Protect and support the adjoining premises from possible damage from the excavation, and
 - ii) Where necessary, underpin the adjoining premises to prevent any such damage.
40. The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be

made at Council's Customer Services Department.

41.

- a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and,
- b) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
- d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
- e) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.

42. During demolition, excavation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

43. Inspections must be conducted by Council's Engineer at the following occasions:

- a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
- b) Formwork inspection of Council's kerb and gutter prior to laying of concrete,
- c) Formwork inspection of Council's footpath prior to laying of concrete,
- d) Final inspection of driveway layback and adjacent kerb and gutter,
- e) Final inspection of Council's kerb and gutter,
- f) Final inspection of Council's footpath.

44. The Applicant has permission to remove the *Callistemon* street tree at their own expense. The tree may only be removed after a Construction Certificate has been issued and removal shall be undertaken by the Applicant at their own expense.
- a) A qualified Arborist with their own public liability insurance must be engaged.
 - b) All work is to take place on the Council road reserve with the appropriate safety and directional signage implemented to ensure public safety and access otherwise road and footpath closures require a Council Road Occupancy Permit.
 - c) A Dial-Before-You-Dig enquiry is required prior to stump grinding the trunk and shall occur without damage to Council infrastructure or underground services/utilities.

Council will take no responsibility for any damage incurred to persons, property or services during the tree removal works.

**CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF A
OCCUPATION CERTIFICATE**

45. An easement for overhang, limited in height and depth as required, shall be registered over each lot, for the overhanging roof elements.
46. Prior to the issue of any Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
47. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.
48. Prior to the issue of an Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
49. Prior to the issue of any Occupation Certificate(s), a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- a) Restriction on Use of Land for On-Site Infiltration System. Refer to Appendix A of the Stormwater Management Technical Guidelines for suggested wording.
50. Prior to the issue of any Occupation Certificate(s), inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
51. Prior to the issue of any Occupation Certificate(s), the applicant shall carry out the following works:

- a) On Rawson Street, adjacent to development, reconstruct existing Kerb and Gutter for the full length property in accordance with Council Infrastructure Specifications, and
 - b) On Rawson Street, adjacent to development, reconstruct existing Footpath for the full length of the property in accordance with Council Infrastructure Specifications.
- 52. Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109M of the *Environmental Planning and Assessment Act, 1979*.
- 53. A report prepared by a qualified air quality/mechanical engineer certifying that the mechanical ventilation/exhaust system as installed complies in all respects with the design and operation standards of AS 1668 – Mechanical Ventilation and Air Conditioning Codes, and the relevant provisions of the Protection of the Environment Operations Act 1997 shall be submitted to Council within 21 days of the installation of the system and prior to the occupation of the premises.
- 54. Prior to release of the Occupation Certificate the developer must submit to the Principal Certification Authority an acoustic report to verify that the measures stated in the acoustic report have been carried out and certify that the construction meets the above requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).
- 55. 1 x *Tristaniopsis laurina*, minimum height 1.4 metres and pot size 45-75 litre, shall be installed in the Rawson Street nature strip on the eastern side of Dwelling 2 driveway by a qualified landscape contractor. The tree shall be sourced from a reputable supplier that grows to NATSPEC.
 - a) A Dial-Before-You-Dig enquiry is required prior to all tree planting.
 - b) The trees shall be planted in an area measuring 1 metre square, backfilled with imported soil/compost, water holding additive and fertiliser, and mulched with leaf mulch to a depth of 100mm.
 - c) The trees are to be staked in accordance with Council's Landscape DCP and NATSPEC recommendations.
 - d) The Applicant is required to obtain a Council inspection of new trees prior to the maintenance period commencing.
- 56. Prior to the issue of an Occupation Certificate, one (1) evergreen tree, at least 1.8 metres in height and 75 litre pot size, shall be installed in the front setback of each property to soften the development and provide amenity to the streetscape and/or as replacement for trees removed. The species selected should be native, have low water requirements, be suited to the local soils and have a minimum height at maturity of 5-6 metres.
- 57. One (1) evergreen tree shall be planted in the rear setback of each property to provide screening and privacy for adjoining residents. Suggested species: *Hymenosporum flavum*.
- 58. The Council nature strip in Rawson Street shall be repaired and/or replaced and

maintained in accordance with Council Specification at the completion of all construction work at the Applicant's expense.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

59. The ongoing maintenance of the nature strips shall be undertaken by the occupier/owner. Maintenance includes mowing, the removal of weeds, rubbish and maintaining a good, even coverage of grass at all times. Maintenance **does not include** pruning, trimming, shaping or any work to street tree located on the Council nature strip under any circumstances at any time. Pruning is undertaken by Council only.
60. The stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.
61. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975*, and *AS2201, Parts 1 and 2 - 1978 Intruder alarm systems*.
62. A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
 - a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - b) Before 7 am or after 10 pm on any other day.
63. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
64. The buildings are approved as single dwellings on each site. The buildings shall not be used for separate residential occupation or as separate residential flats. No plumbing fixtures, fittings, walls shall be deleted or added, doorways enclosed or any other changes made from the approved plans in Condition No. 1 of this Consent

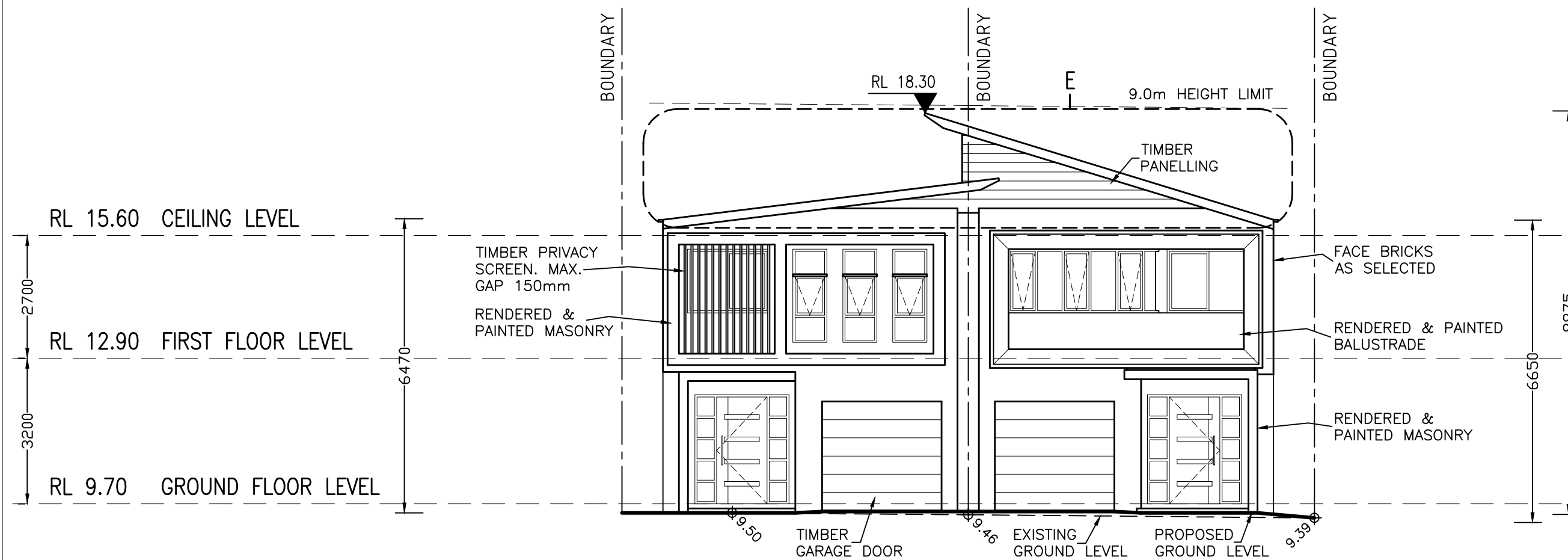
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65. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 16/119 dated as 27 July 2016 and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval from Council.

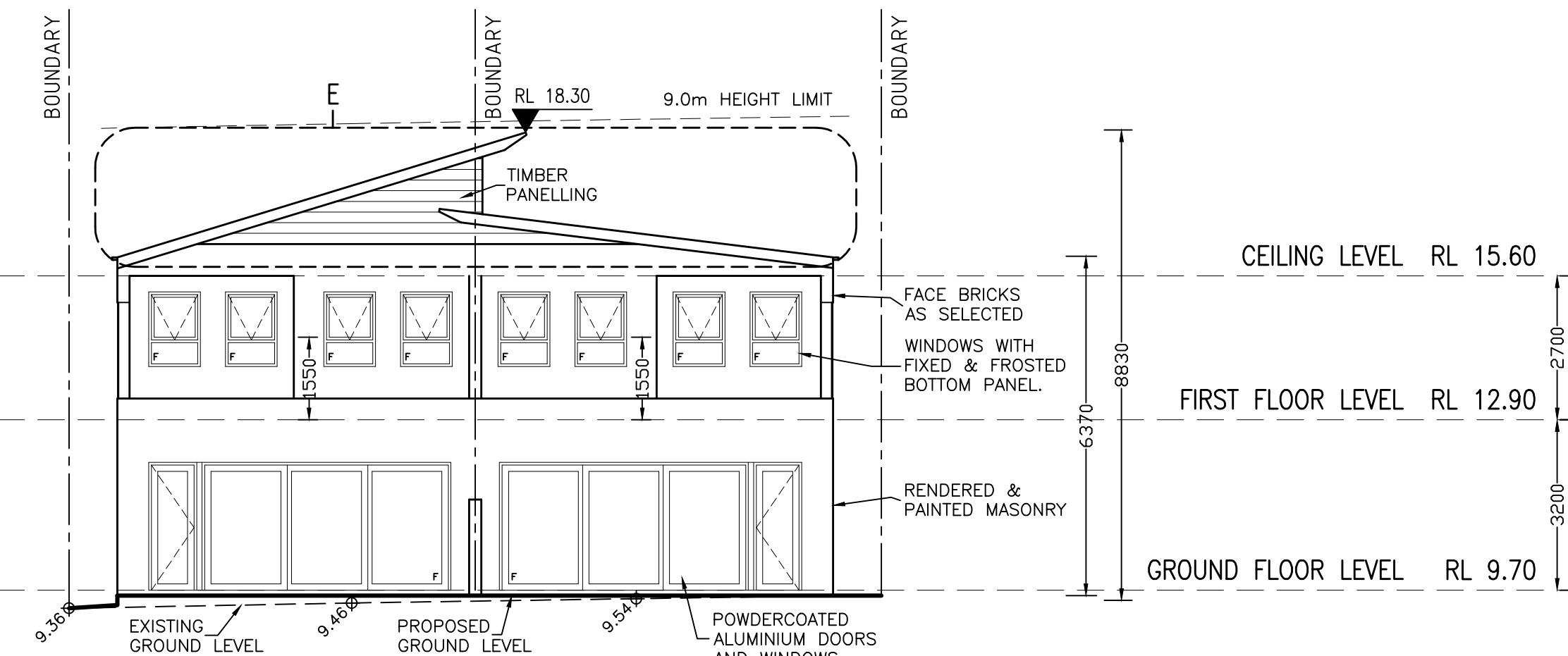
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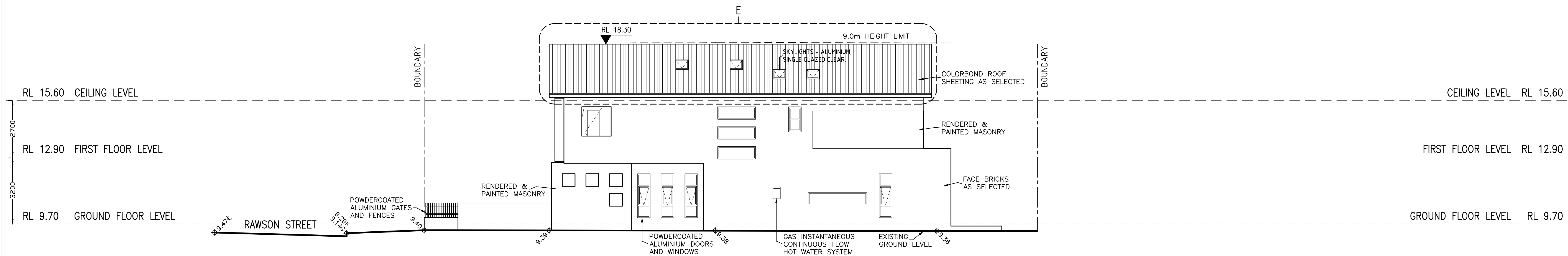
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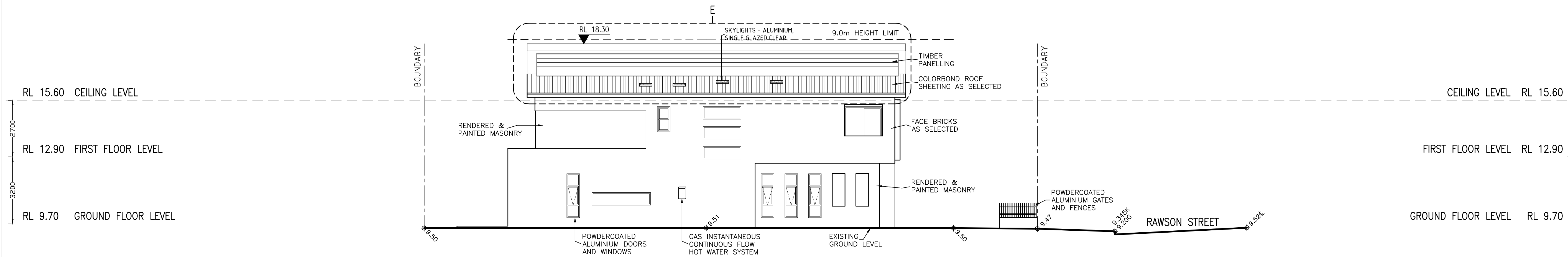
NORTH ELEVATION
SCALE 1:100 (RAWSON STREET)



SOUTH ELEVATION
SCALE 1:100



WEST ELEVATION
SCALE 1:100



EAST ELEVATION
SCALE 1:100

ISSUE:
A: 20/07/16: DA LODGEMENT ISSUE
B: 21/09/16: NORTH POINT & SECTION NUMBER ADJUSTED.
C: 14/11/16: CHANGES TO FACADE & GABLE. BEDROOM WINDOWS TO SOUTH ELEVATION AMENDED.
D: 17/01/17: DWELLING 1 MOVED SOUTH 370mm SOUTH.
E: 17/02/17: DWELLING 2 MOVED SOUTH TO LINE UP WITH DWELLING 1. ROOF AMENDED.
F: 14/02/17: POSITION OF HOT WATER SYSTEMS SHOWN ON WEST & EAST ELEVATIONS.

DRAWING

ELEVATIONS

DESIGNED BY:
**CORNERSTONE
DESIGN**
5/146 RAILWAY PDE KOGARAH
NSW 2217 AUSTRALIA
Tel: +61 2 9553 9911
Mob: 042 111 8888

PROJECT:
PROPOSED DUAL OCCUPANCY AT
40 RAWSON STREET MASCOT
Lots 25 & 26, Sec 2, DP 4089

CLIENT:
KENSWORD PTY LTD

DRAWING NUMBER:
DA 04

PLAN NUMBER: CD 14.04

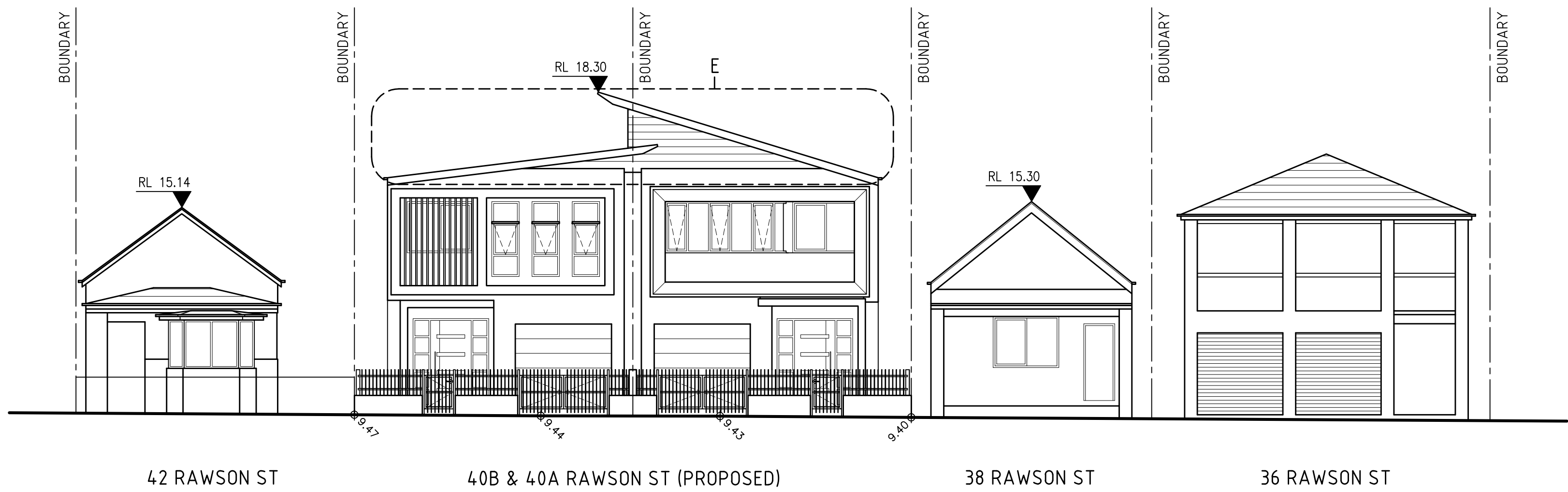
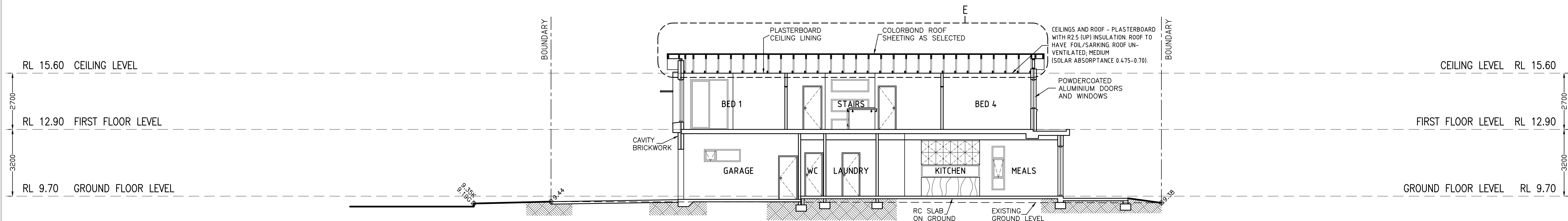
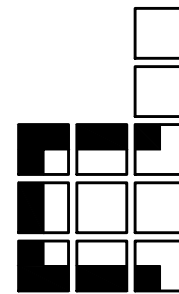
SCALES:
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DESIGNED BY: WILLIAM KARAVELAS

ISSUE:
F

FILENAME:

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ISSUE:
A: 20/07/16: DA LODGEMENT ISSUE
B: 21/09/16: NORTH POINT & SECTION NUMBER ADJUSTED. SECTION & STREETSCAPE AMENDED TO REFLECT CHANGES IN FACADE AND ROOF.
C: 16/11/16: SECTION & STREETSCAPE AMENDED TO REFLECT CHANGES TO FACADE.
D: 11/02/17: ROOF AMENDED.

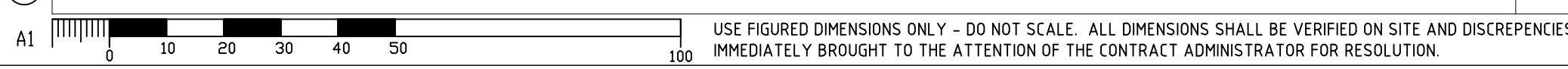
DRAWING

SECTION & STREETSCAPE ELEVATION

DESIGNED BY:
 CORNERSTONE DESIGN
5/146 RAILWAY PDE KOGARAH
NSW 2217 AUSTRALIA
Tel: +61 2 9553 9911
Mob: 042 111 8888

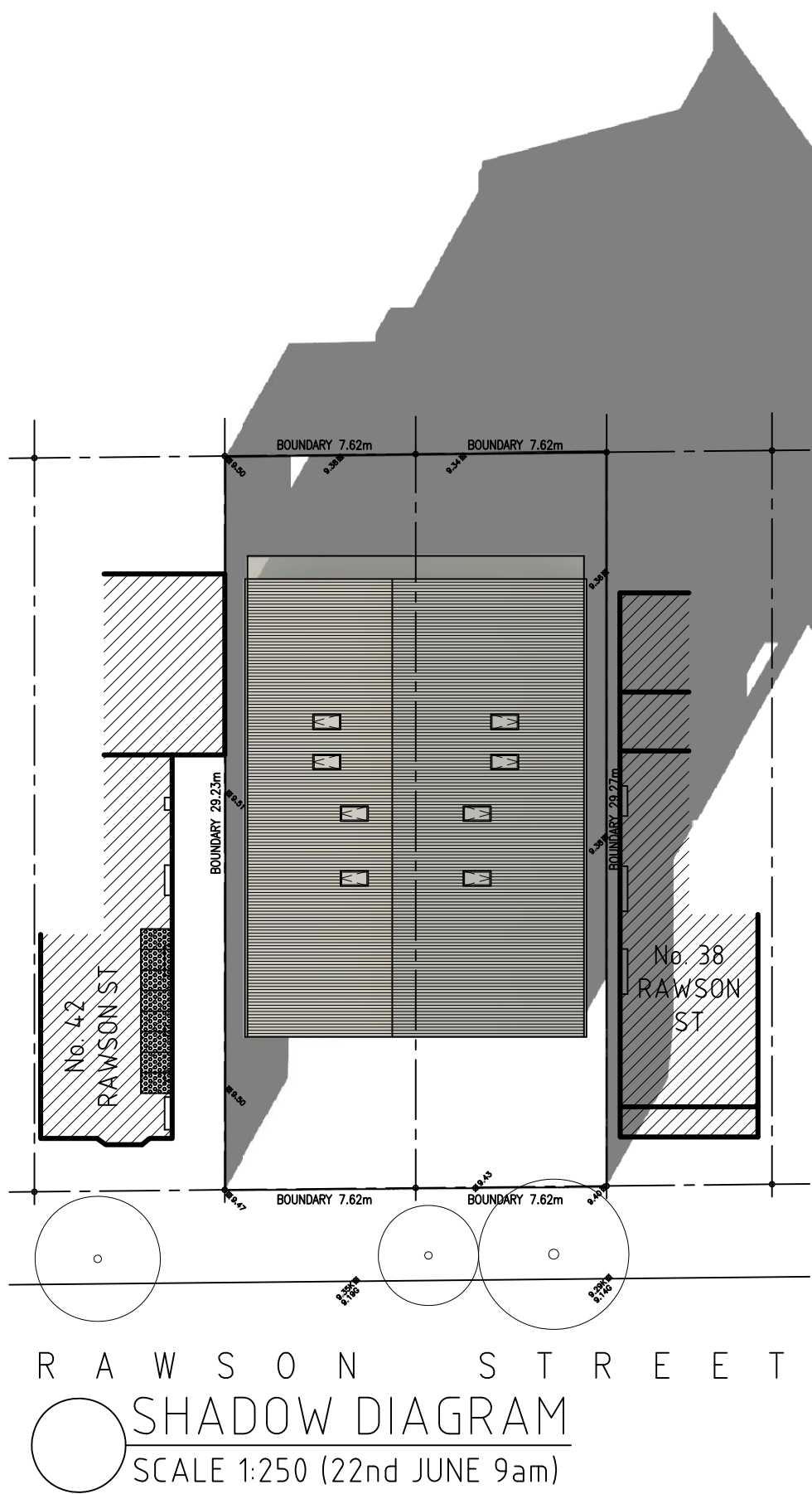
PROJECT:
PROPOSED DUAL OCCUPANCY AT
40 RAWSON STREET MASCOT
Lots 25 & 26, Sec 2, DP 4089
CLIENT:
KENSWORD PTY LTD

DRAWING NUMBER: DA 05	ISSUE: D
PLAN NUMBER: CD 14 04	
SCALES: 1:100@A1	
DESIGNED BY: WILLIAM KARAVELAS	

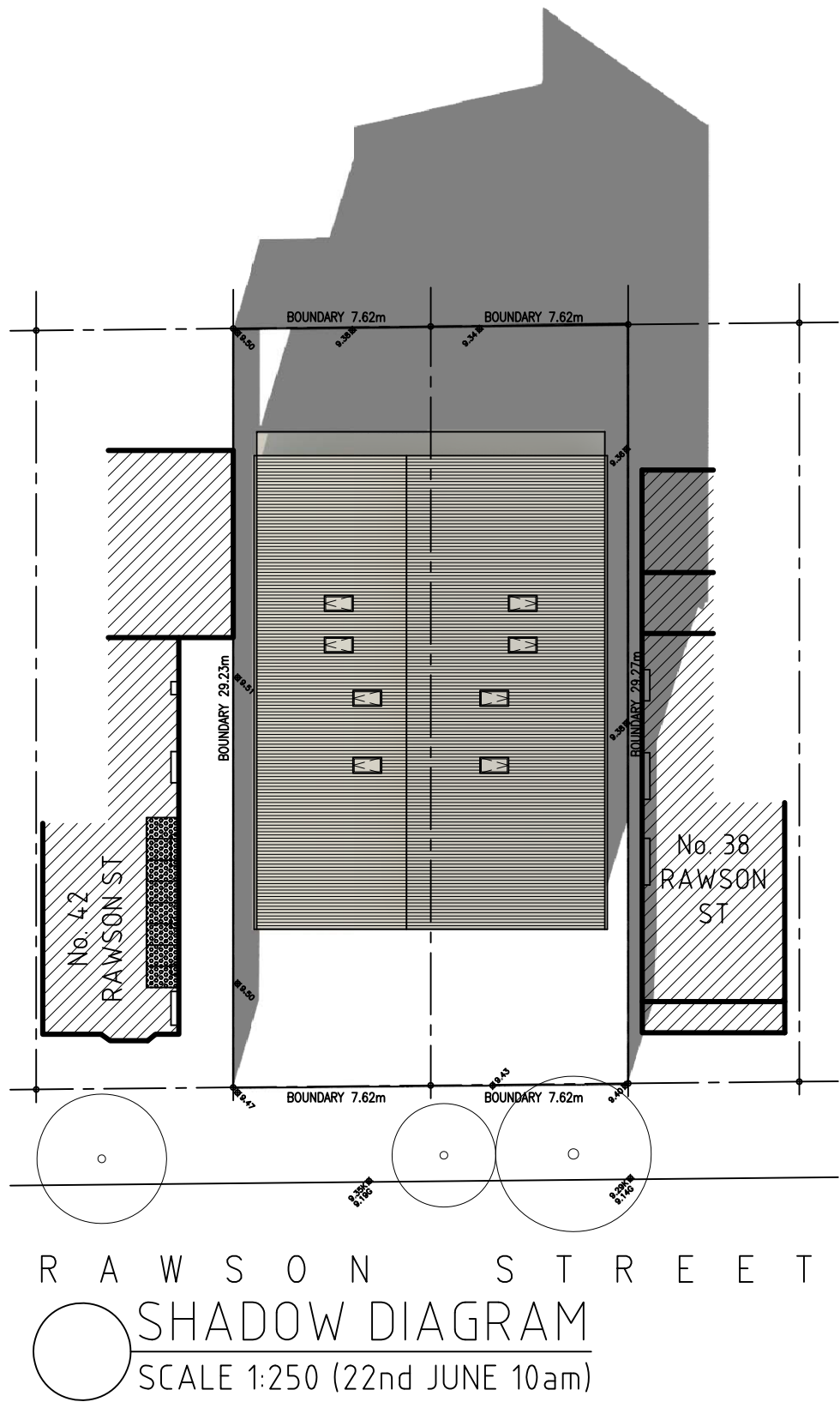


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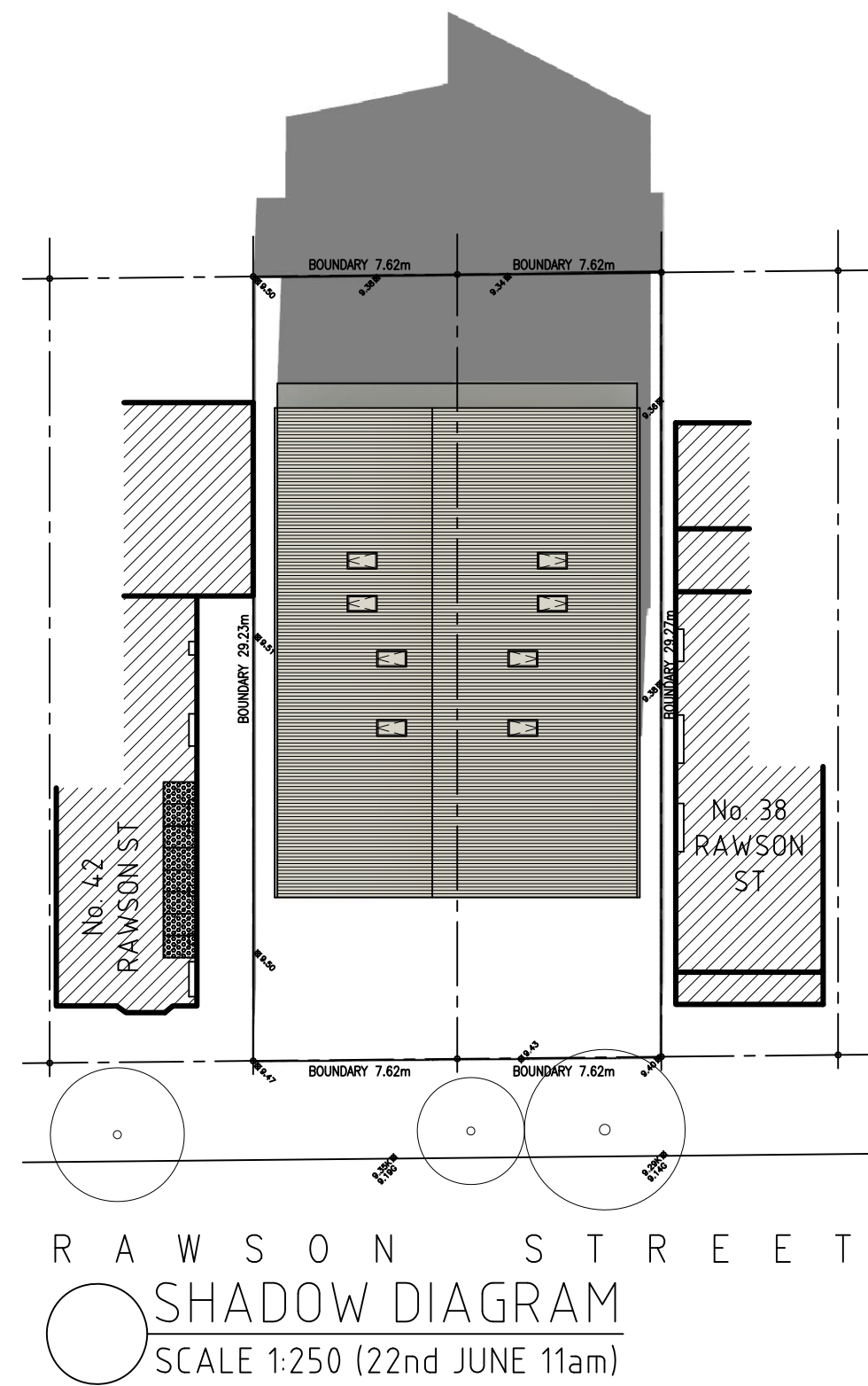
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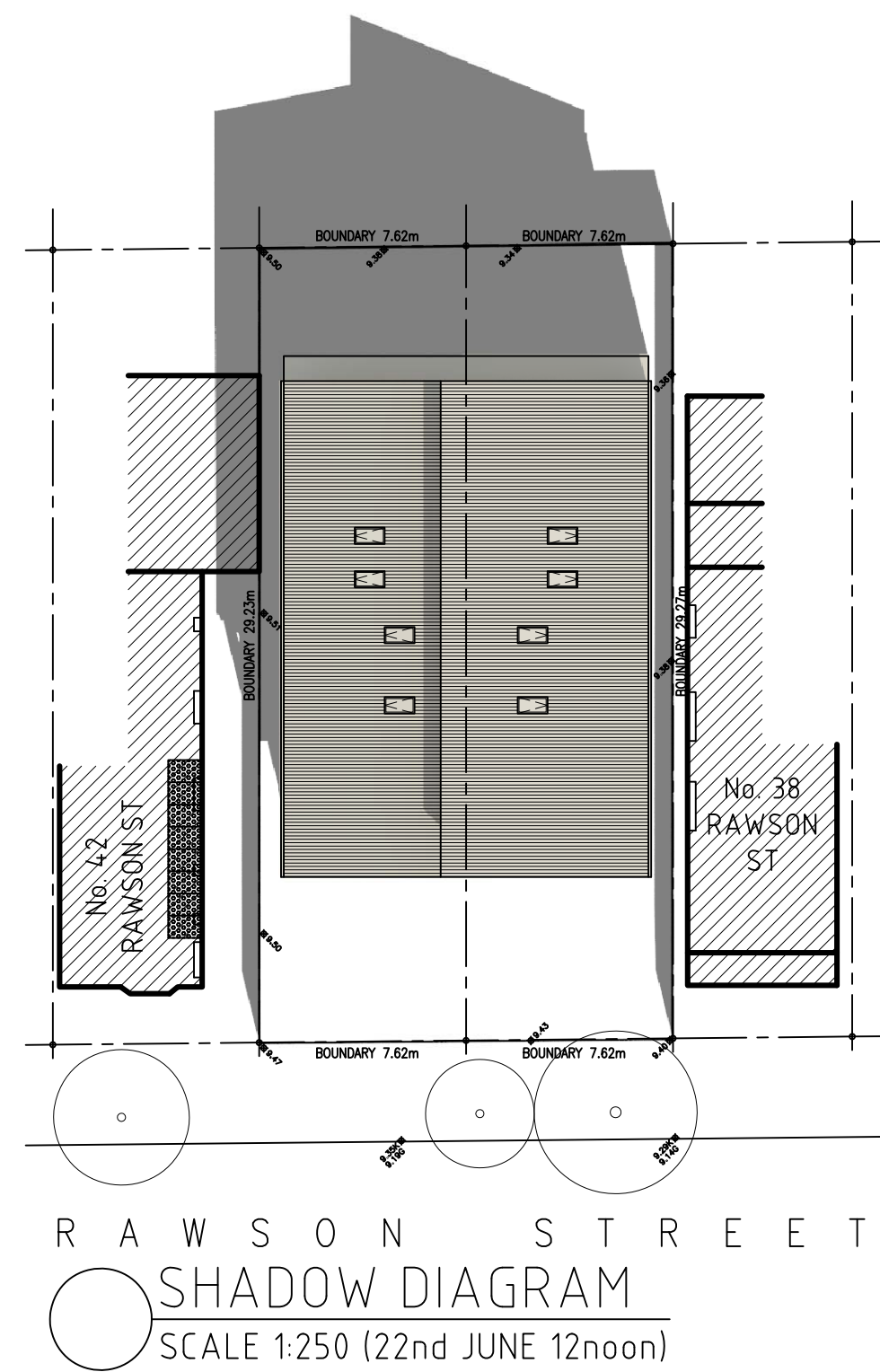
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SHADOW DIAGRAM
SCALE 1:250 (22nd JUNE 9am)



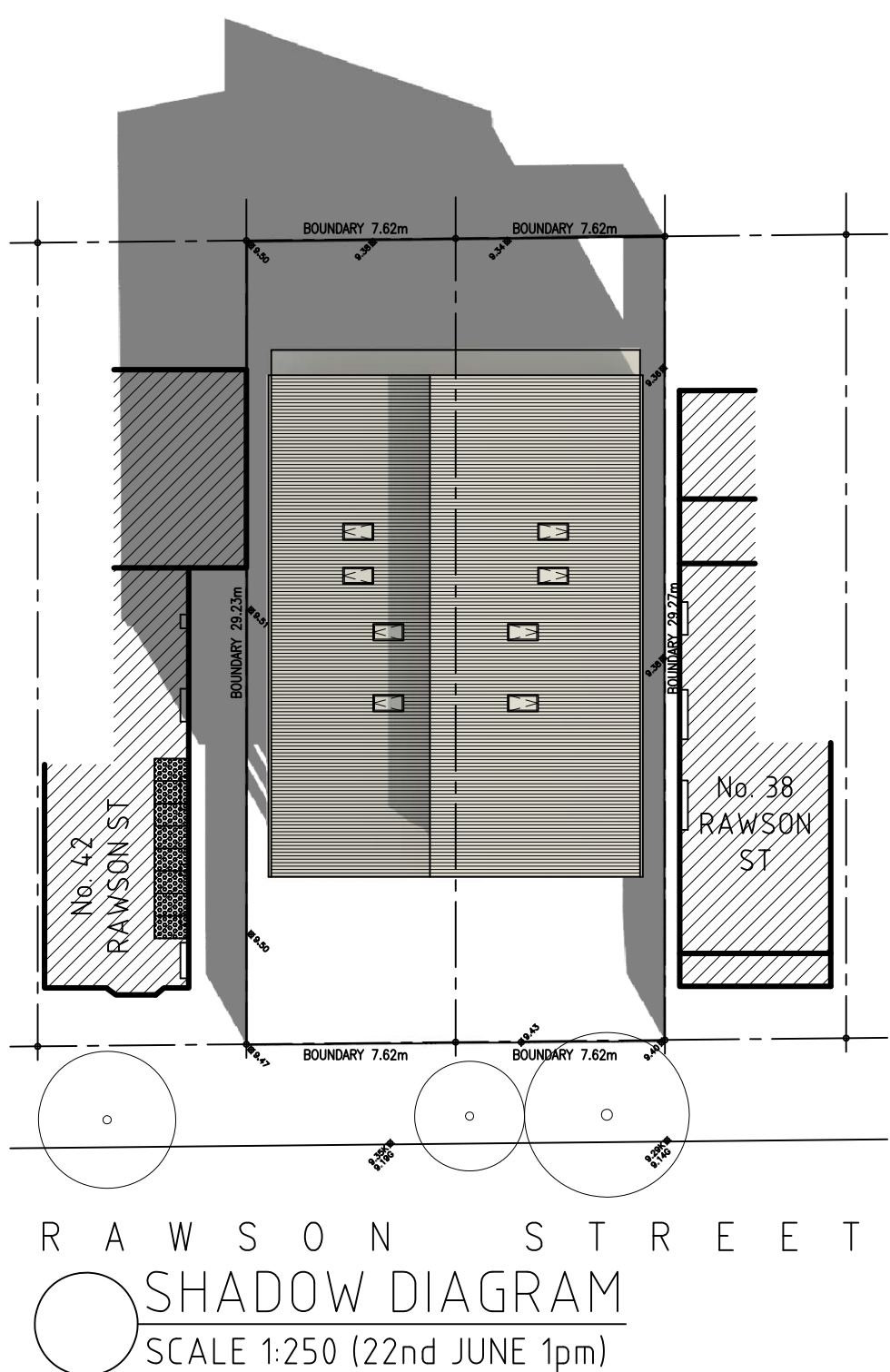
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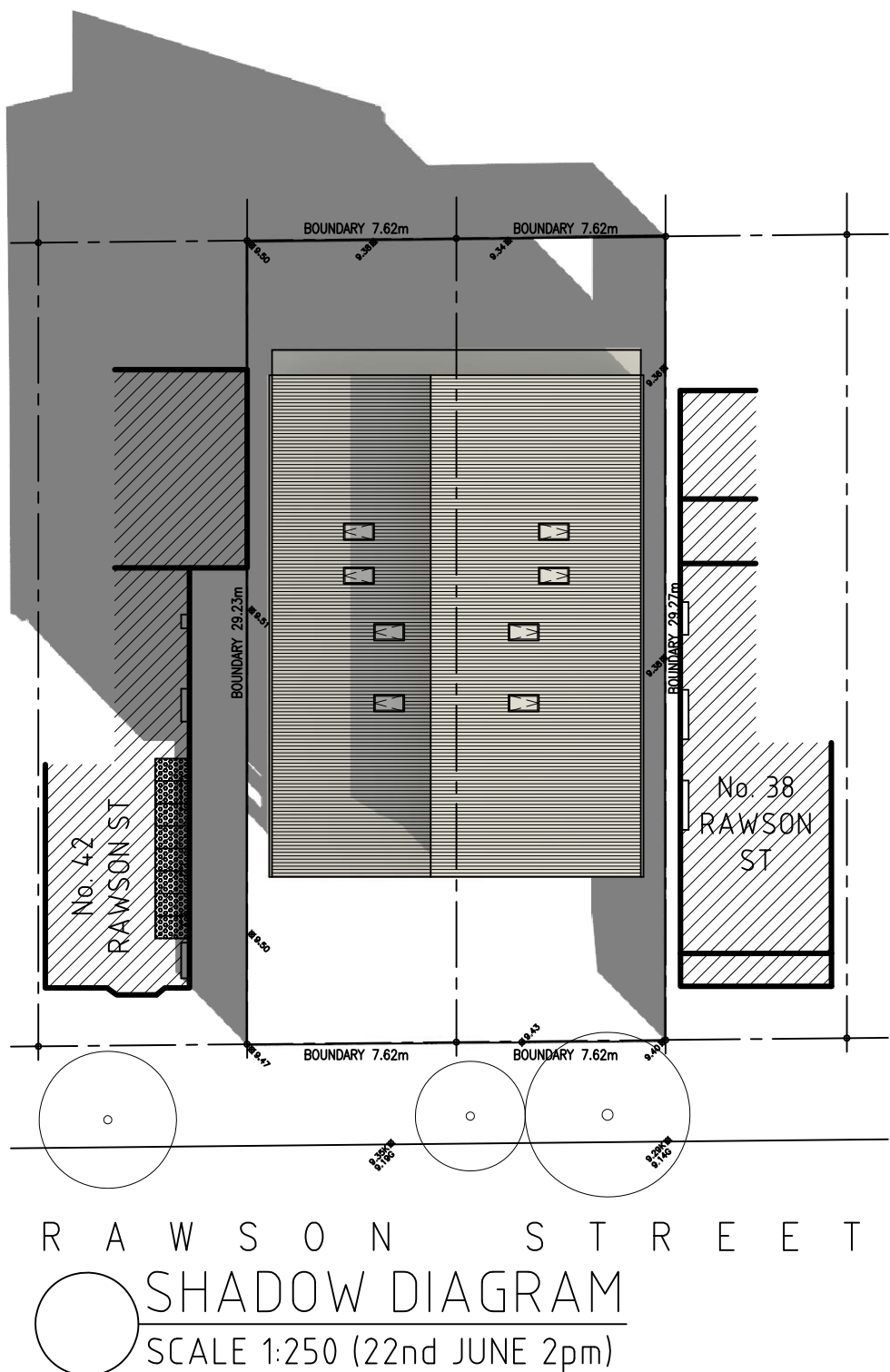
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SCALE 1:250 (22nd JUNE 11am)



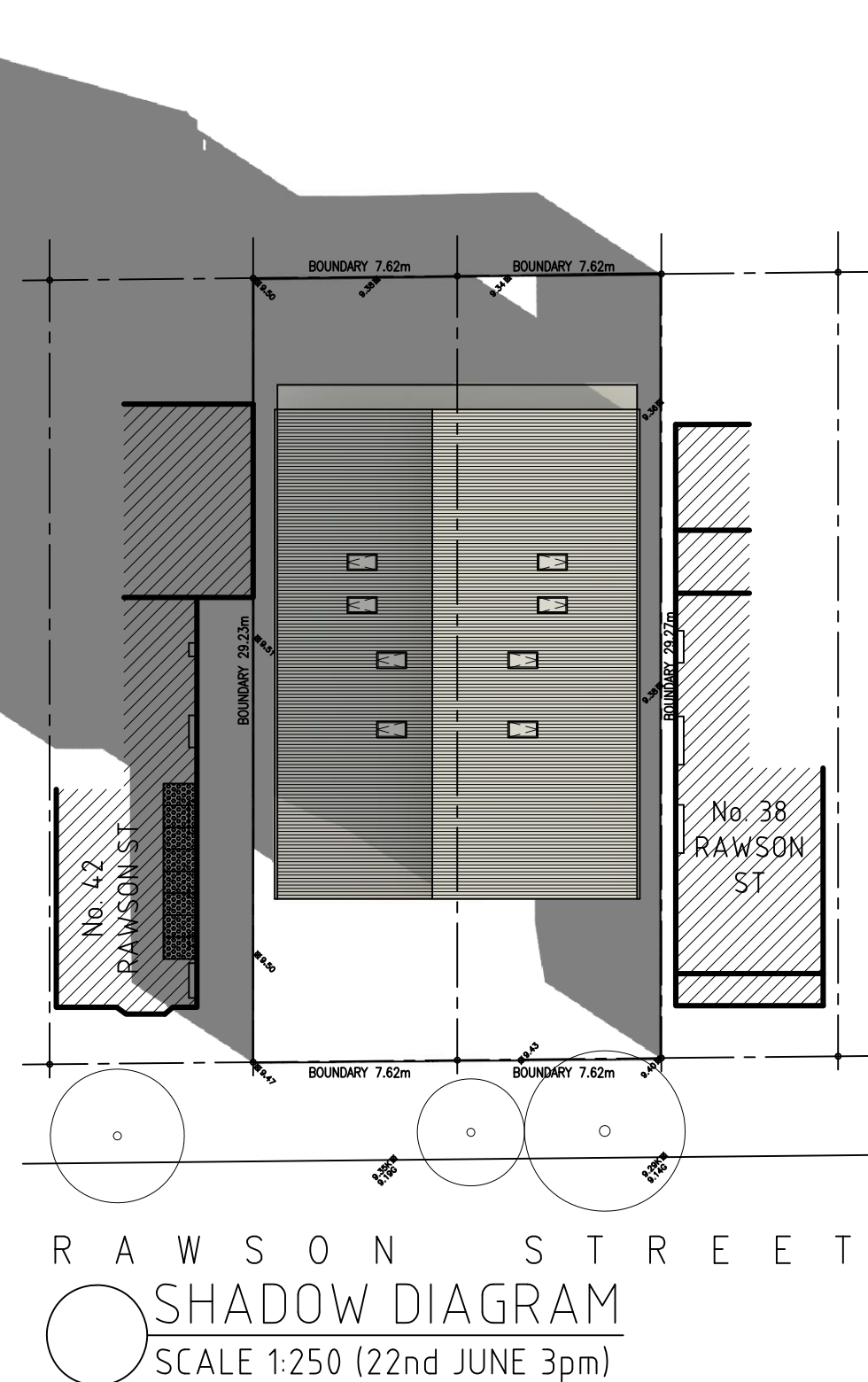
RAWSON STREET
SHADOW DIAGRAM
SCALE 1:250 (22nd JUNE 12noon)



RAWSON STREET
SHADOW DIAGRAM
SCALE 1:250 (22nd JUNE 1pm)

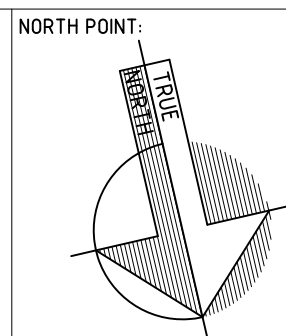


RAWSON STREET
SHADOW DIAGRAM
SCALE 1:250 (22nd JUNE 2pm)



RAWSON STREET
SHADOW DIAGRAM
SCALE 1:250 (22nd JUNE 3pm)

ISSUE:
A: 20/07/16: DA LODGEMENT ISSUE
B: 21/09/16: NORTH POINT & SECTION NUMBER ADJUSTED. SHADOWS ADJUSTED TO REFLECT CHANGES TO ROOF.
C: 17/01/17: SHADOWS AMENDED TO REFLECT DWELLING 1 BEING MOVED 430mm SOUTH.
D: 13/02/17: ROOF CHANGED & SHADOWS AMENDED.



DRAWING:

SHADOW DIAGRAMS

DESIGNED BY:
**CORNERSTONE
DESIGN**
5/146 RAILWAY PDE KOGARAH
NSW 2217 AUSTRALIA
Tel: +61 2 9553 9911
Mob: 042 111 8888

PROJECT:
PROPOSED DUAL OCCUPANCY AT
40 RAWSON STREET MASCOT
Lots 25 & 26, Sec 2, DP 4089

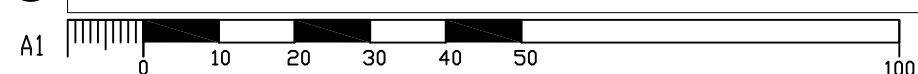
CLIENT:
KENSWORD PTY LTD

DRAWING NUMBER:
DA 06

ISSUE:
D

PLAN NUMBER: CD 1404

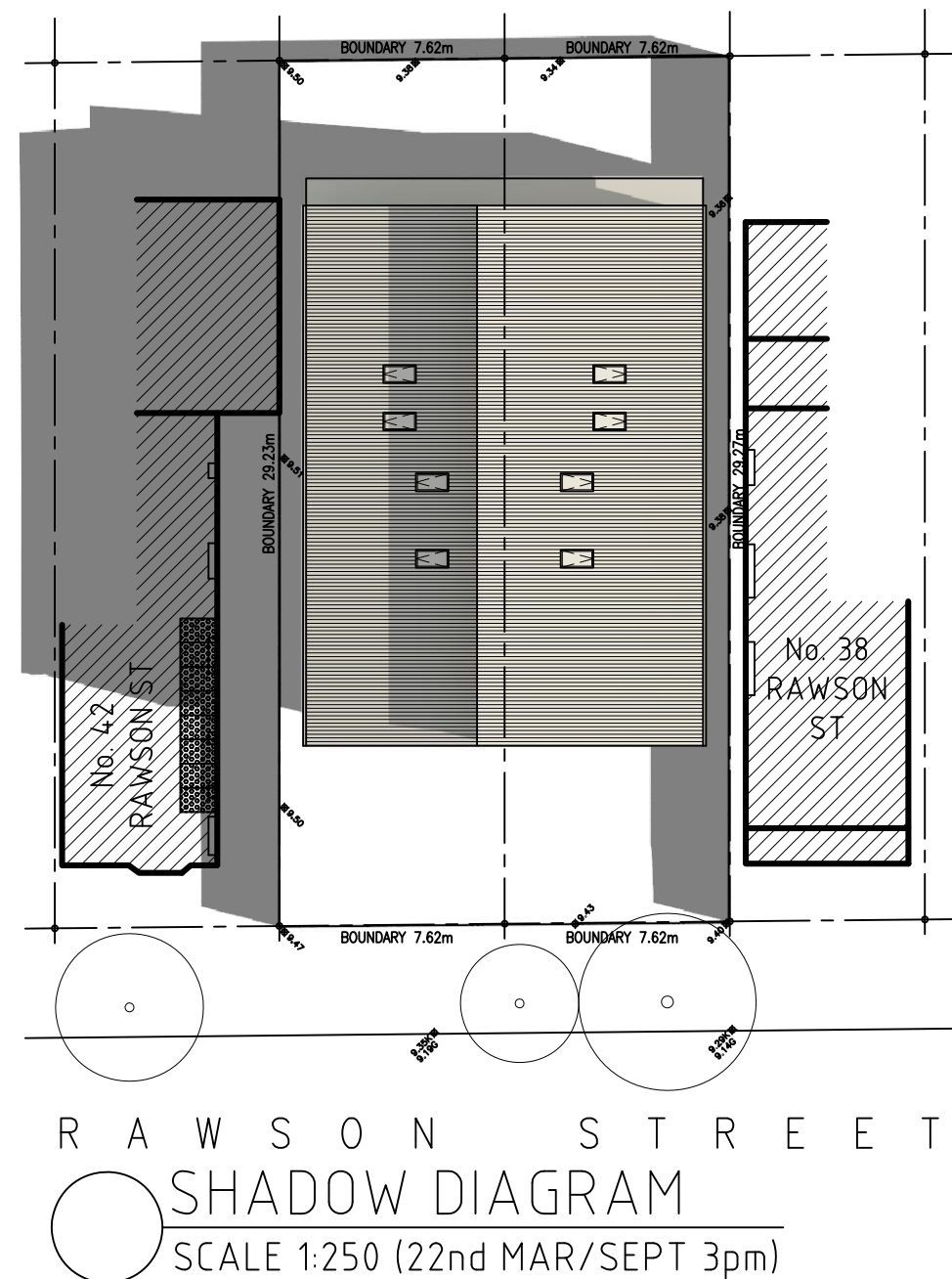
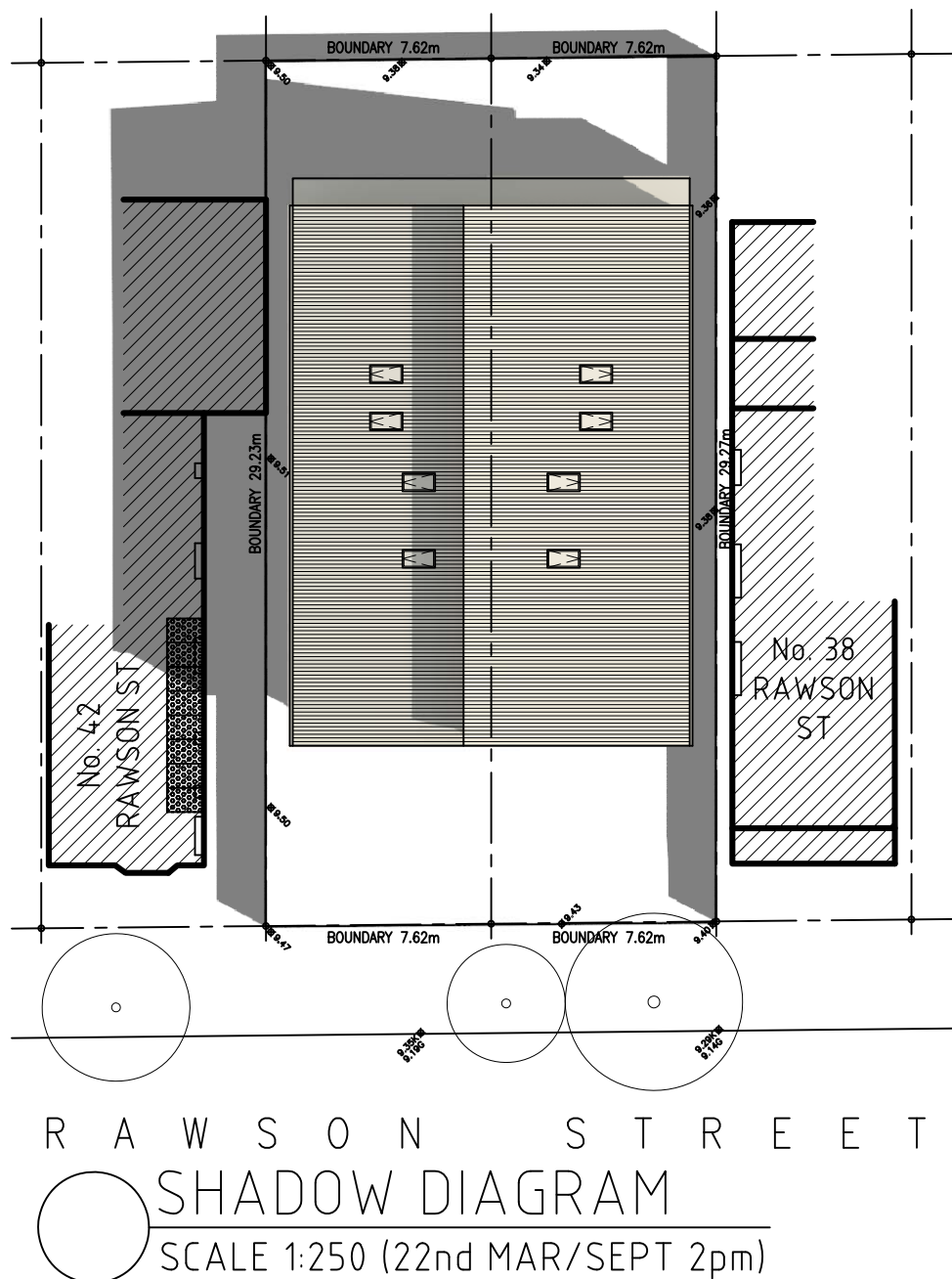
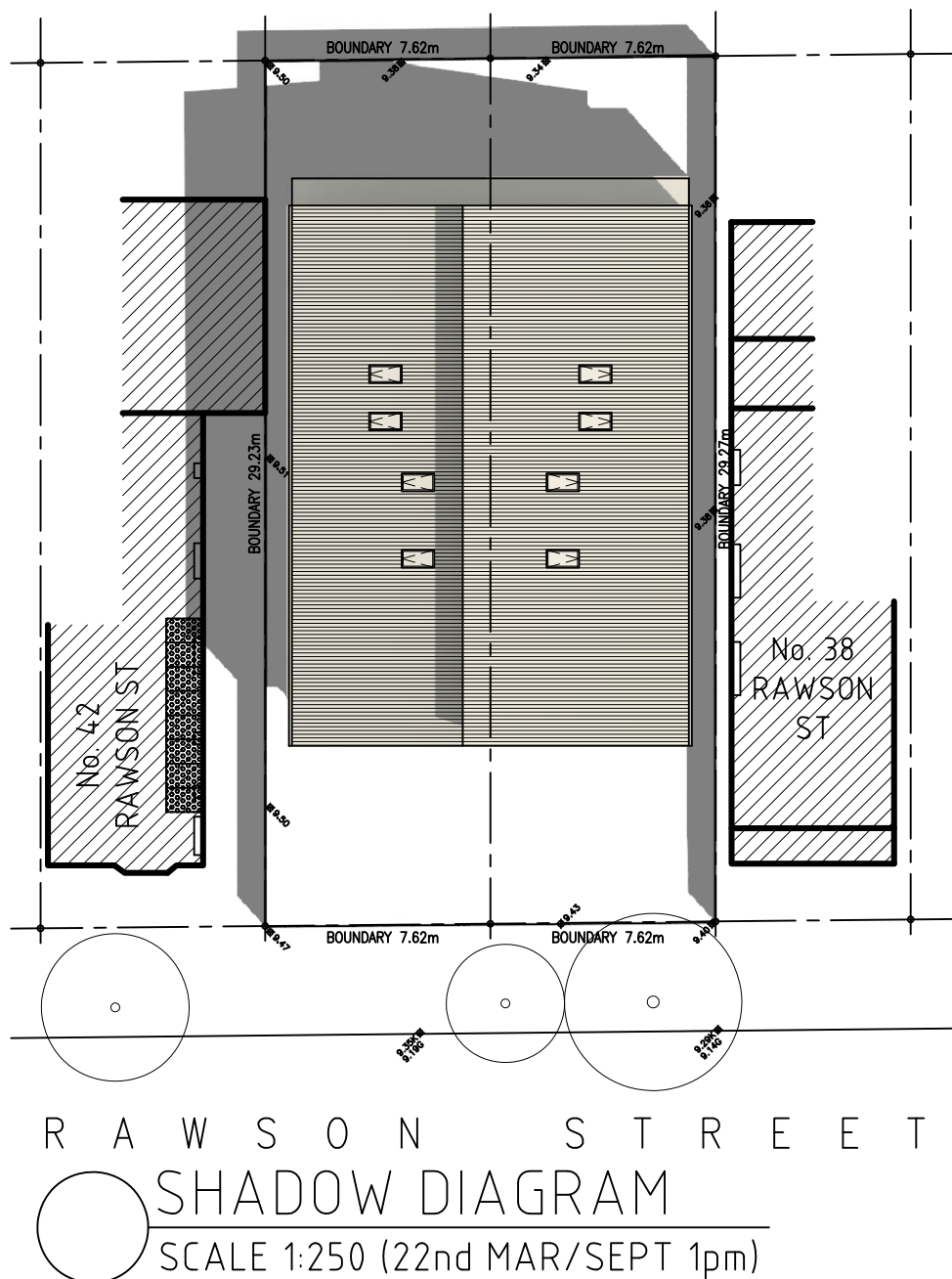
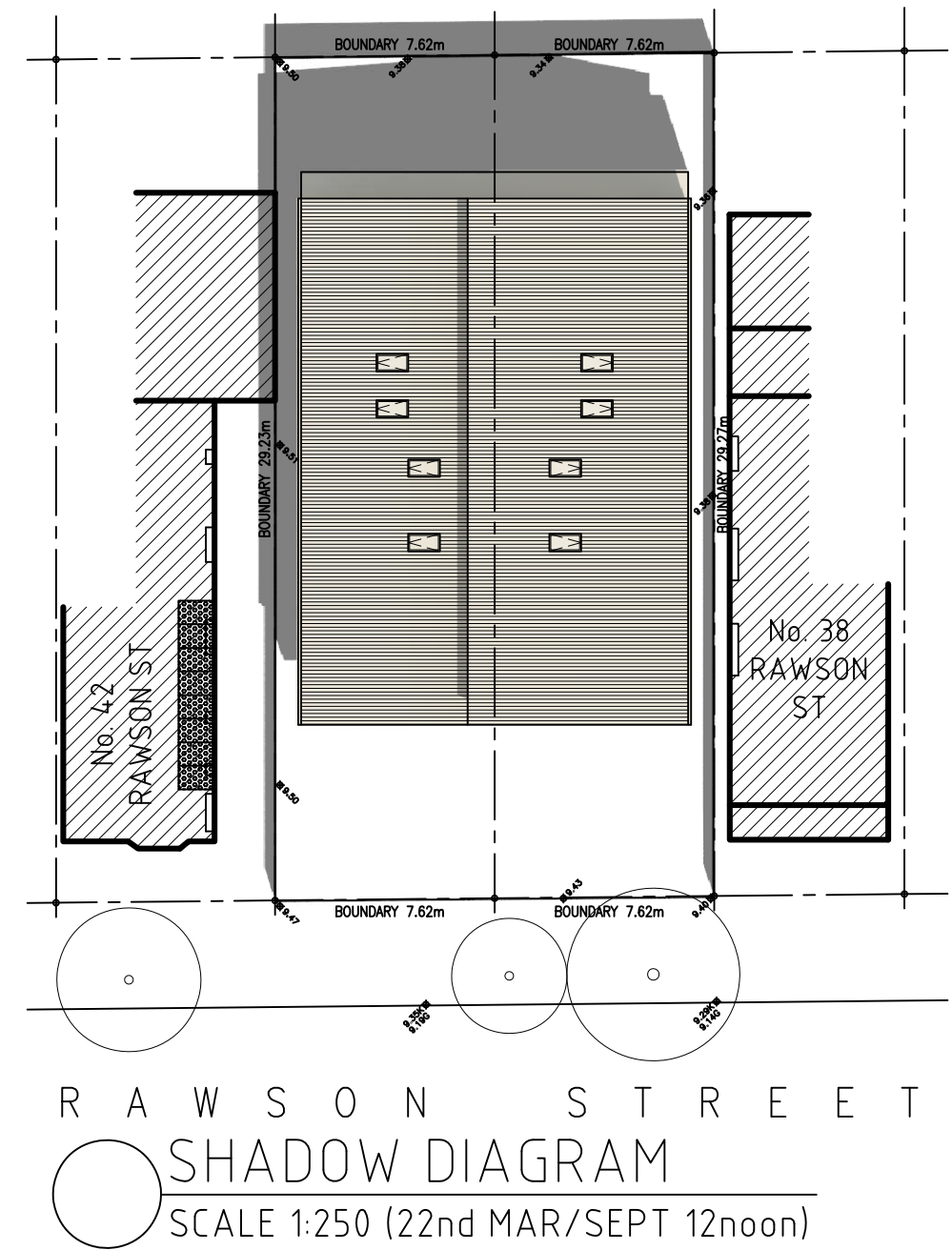
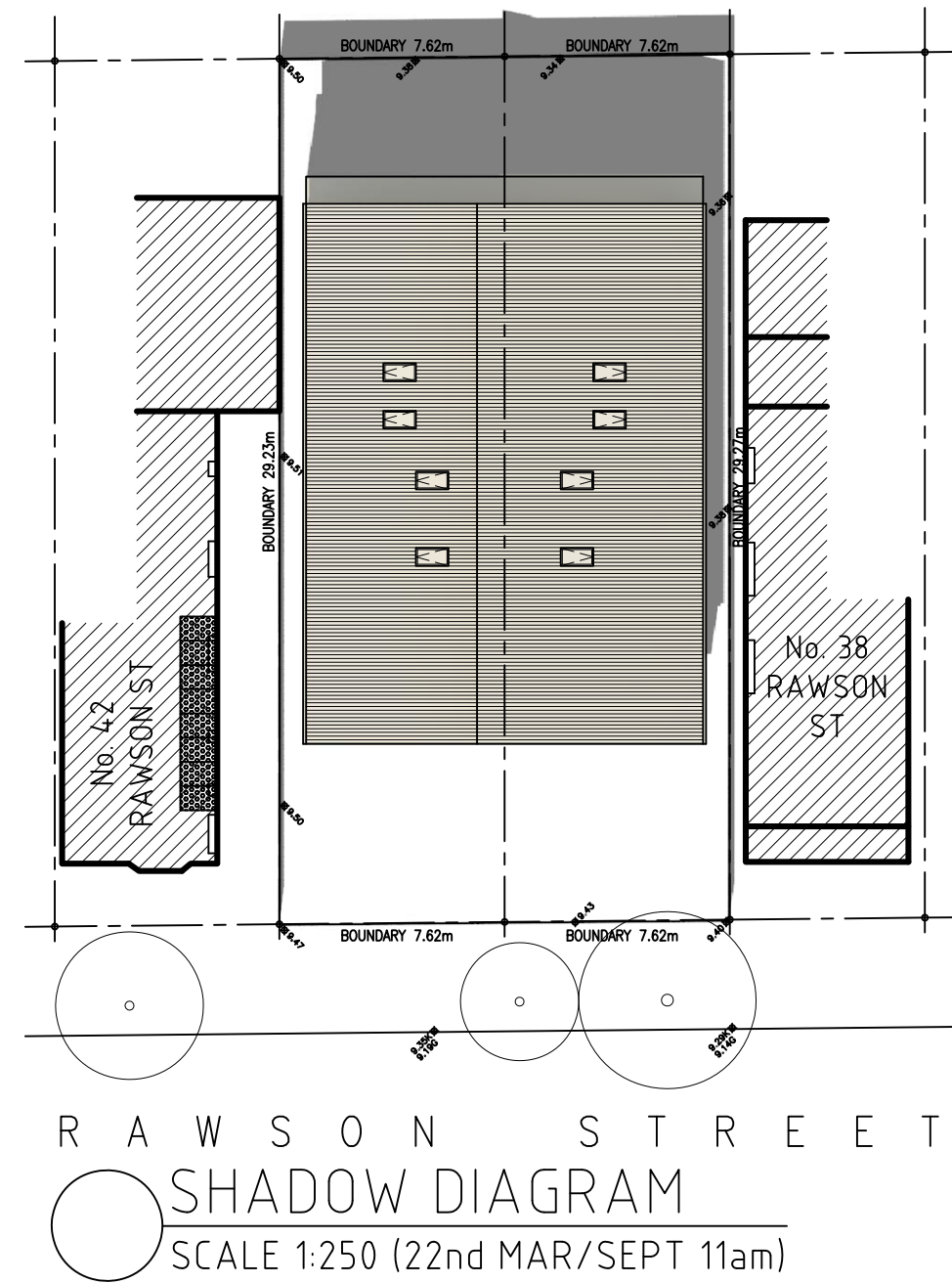
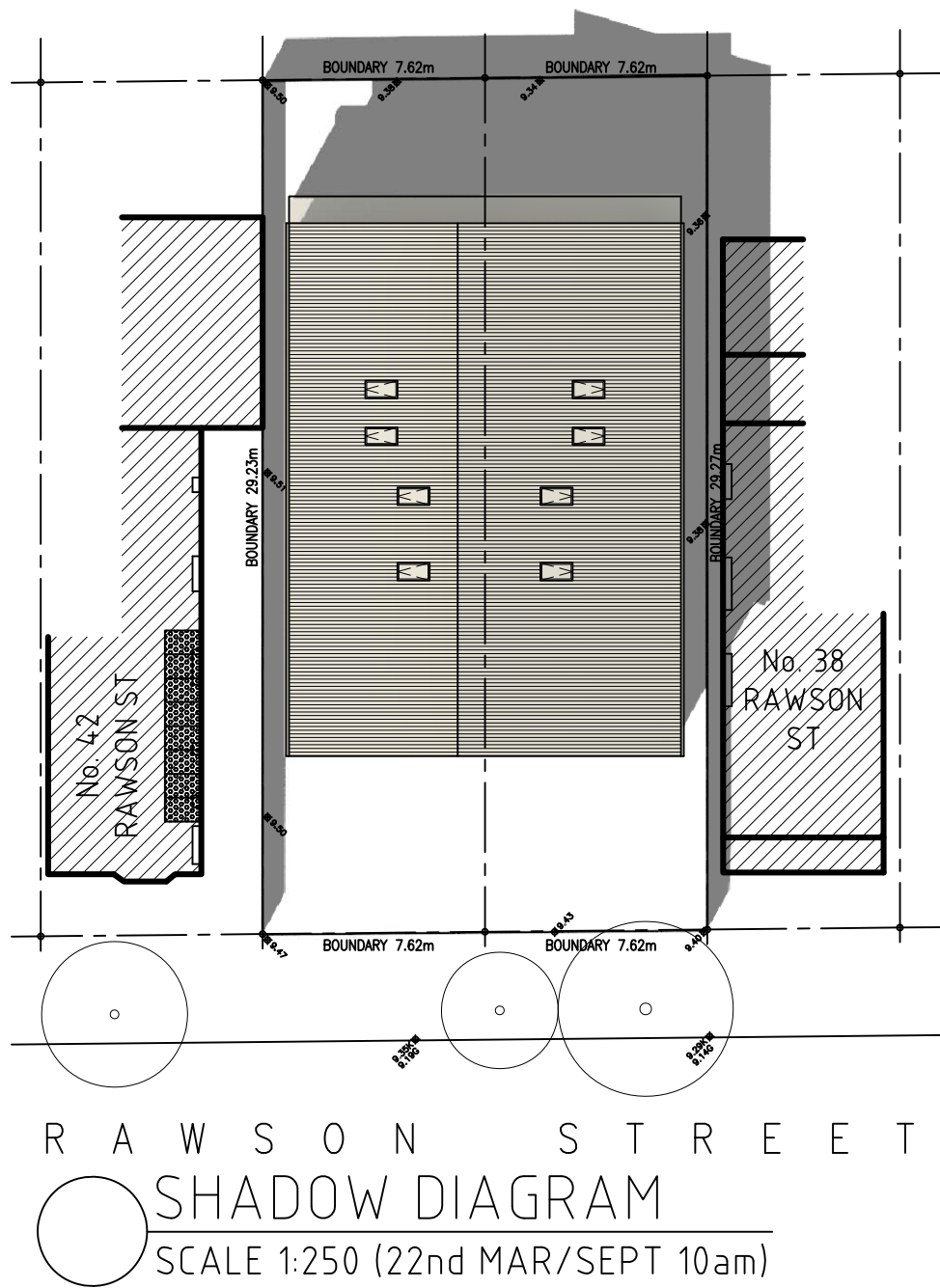
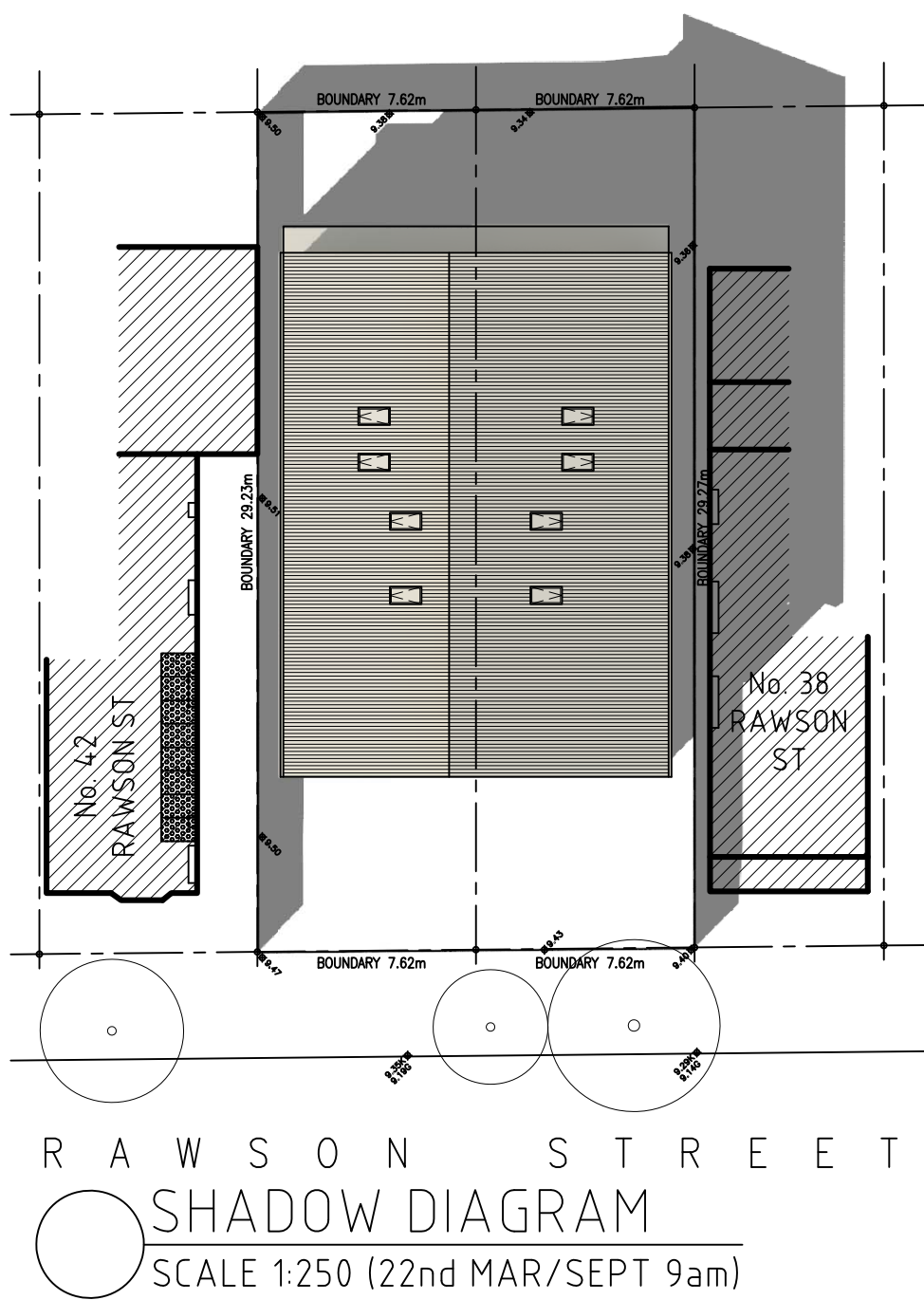
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DESIGNED BY: WILLIAM KARAVELAS



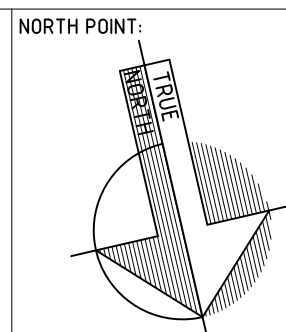
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C: 17/01/17: SHADOWS AMENDED TO REFLECT DWELLING 1 BEING MOVED 430mm SOUTH.
D: 13/02/17: ROOF CHANGED AND SHADOWS AMENDED.



DRAWING:

SHADOW DIAGRAMS

DESIGNED BY:
**CORNERSTONE
DESIGN**
5/146 RAILWAY PDE KOGARAH
NSW 2217 AUSTRALIA
Tel: +61 2 9553 9911
Mob: 042 111 8888

PROJECT:
PROPOSED DUAL OCCUPANCY AT
40 RAWSON STREET MASCOT
Lots 25 & 26, Sec 2, DP 4089

CLIENT:
KENSWORD PTY LTD

DRAWING NUMBER:
DA 07

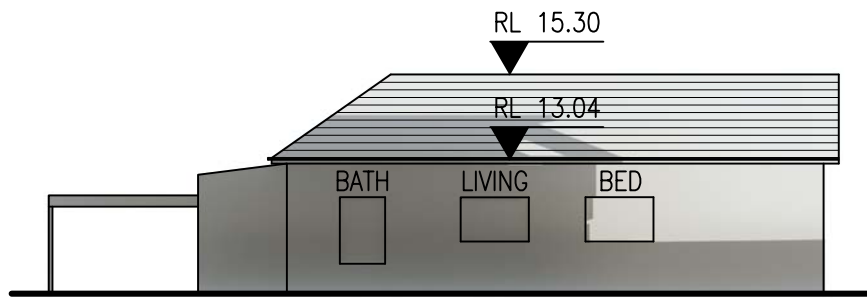
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PLAN NUMBER: CD 1404

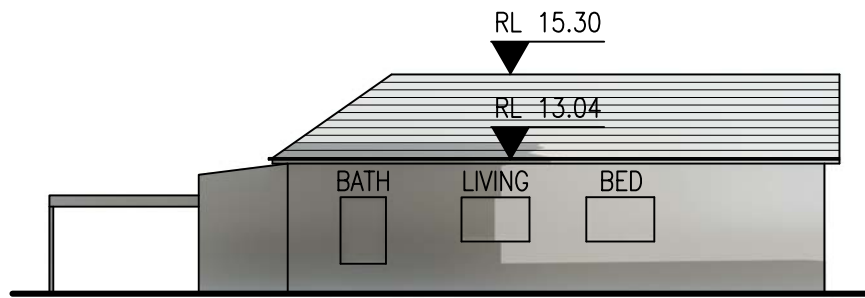
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DESIGNED BY: WILLIAM KARAVELAS

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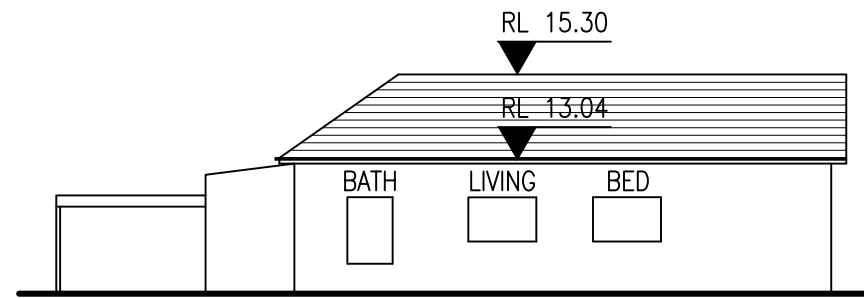
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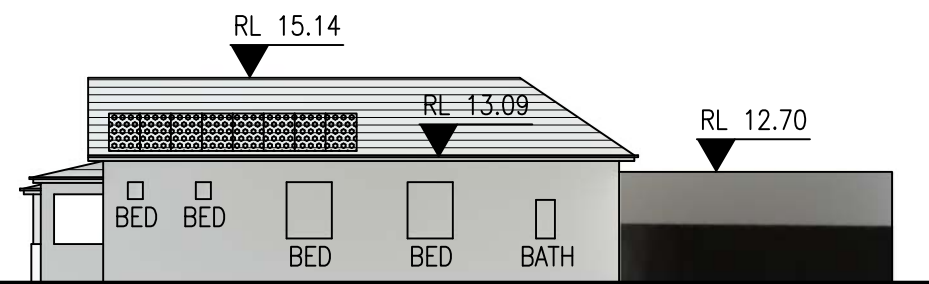
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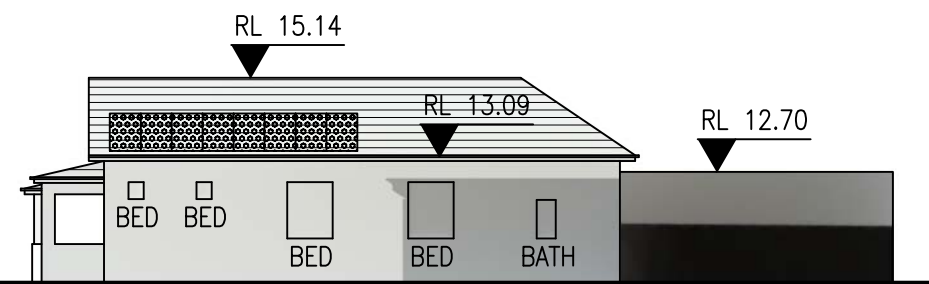
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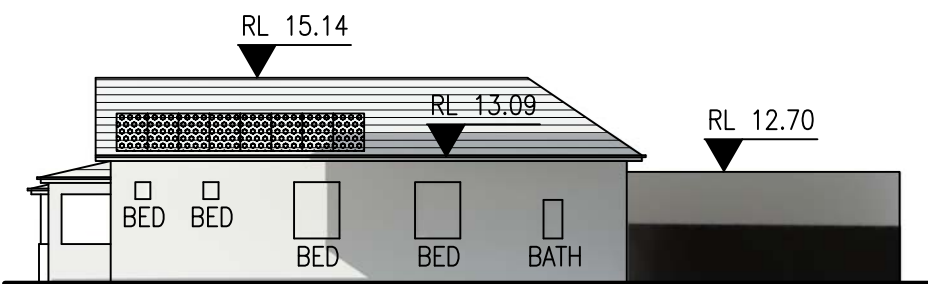
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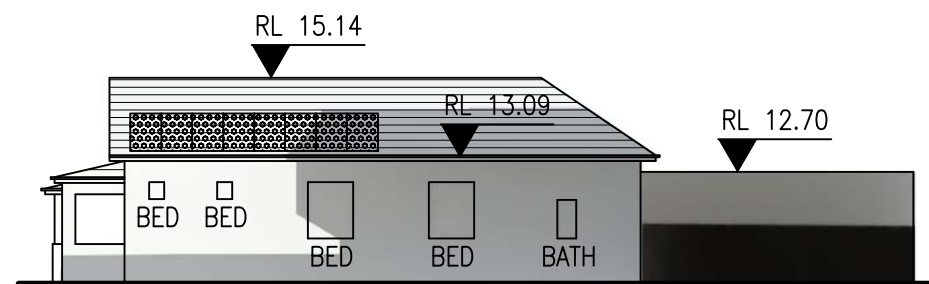
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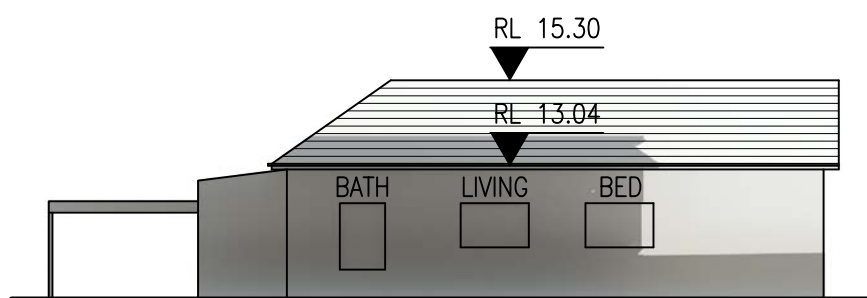
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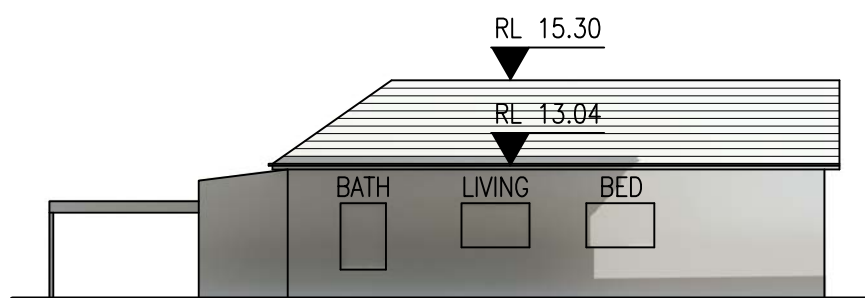
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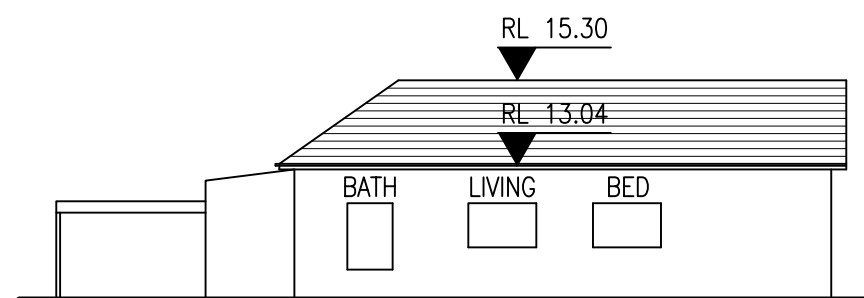
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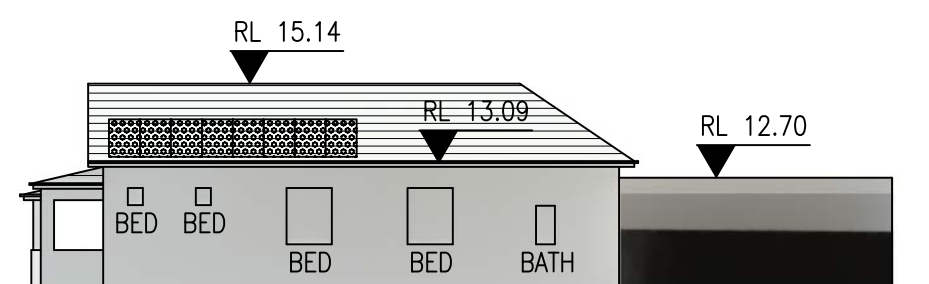
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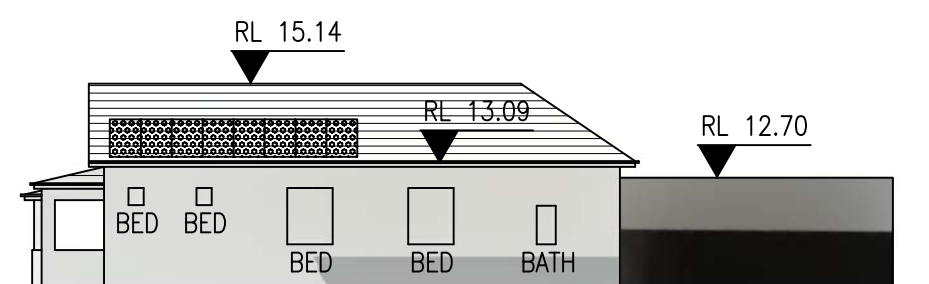
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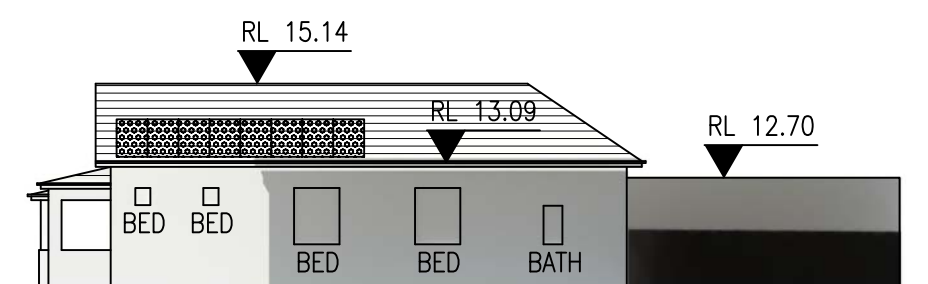
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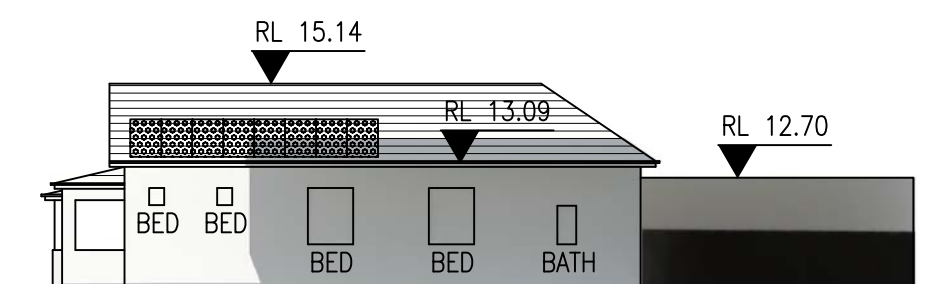
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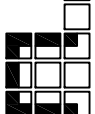


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KENSWORD PTY LTD

DRAWING NUMBER:
DA 08

PLAN NUMBER: CD 14.04

SCALES:
1:250@A1, 1:500@A3
DESIGNED BY: WILLIAM KARAVELAS

ISSUE:
D

FILENAME

Council Meeting

8/03/2017

Item No	9.7
Property	Advertising Sign on the Pedestrian Access Bridge Erected Over Wentworth Avenue at Pagewood (for the Golf Course) Formerly described as part Lot 1 in DP 1144655
Proposal	Section 96AA application to modify Development Consent No. 2005/123 approved by the Land and Environment Court for the erection of a bridge and associated advertising signage. This Section 96AA Modification Application is Integrated Development and seeks approval for the removal of 2 x existing approved signage structures (not digital) and replacement with 2 x digital signage structures.
Cost of Development	\$950,000.00
Report by	Amy Groher – Senior Development Assessment Planner
Independent Peer Review	Emma Bell – Independent Planning Consultant
Application No	DA-05/123/02

Council Resolution

Minute 2017/031

Resolved by the Administrator:

That the Development Application DA-05/123/02 for the removal of 2 x existing approved signage structures (not digital) and replacement with 2 x digital signage structures be approved pursuant to Section 96AA of the *Environmental Planning and Assessment Act 1979* and subject to the following modifications:

- a. Amending Condition No. 1 to reflect the plans as amended.
- b. Adding Condition No. 22(i)(16) (as recommended by RMS) requiring the submission of a Construction Traffic Management Plan prior to the issue of a Construction Certificate associated with the digital signage.
- c. Adding Condition No. 22(i)(17) (as recommended by RMS) requiring the obtainment of a Road Occupancy Licence from the Transport Management Centre prior to the issue of a Construction Certificate associated with the digital signage.
- d. Amending Condition No. 24 to include additional conditions recommended by Sydney Airport Corporation Limited (SACL) letter dated 25 November 2016.
- e. Addition of Condition No. 33(c) requiring a Stage 4 Pre-Opening Road Safety Audit within one month of the signage being implemented.
- f. Addition of Condition No. 33(d) requiring a road safety check within 12 months of operation but within 18 months of the sign's installation.

- g. Addition of Condition No. 33(e) requiring that the colour and pattern of the screen frame be complementary to the character and streetscape of the area.
 - h. Addition of Condition No. 33(f) stating that no advertising content is permitted on the screen frame.
 - i. Addition of Condition No. 33(g) prohibiting the animation of the digital signs.
-

Officer Recommendation

That the Development Application DA-05/123/02 for the removal of 2 x existing approved signage structures (not digital) and replacement with 2 x digital signage structures be approved pursuant to Section 96AA of the *Environmental Planning and Assessment Act 1979* and subject to the following modifications:

- a. Amending Condition No. 1 to reflect the plans as amended.
 - b. Adding Condition No. 22(i)(16) (as recommended by RMS) requiring the submission of a Construction Traffic Management Plan prior to the issue of a Construction Certificate associated with the digital signage.
 - c. Adding Condition No. 22(i)(17) (as recommended by RMS) requiring the obtainment of a Road Occupancy Licence from the Transport Management Centre prior to the issue of a Construction Certificate associated with the digital signage.
 - d. Amending Condition No. 24 to include additional conditions recommended by Sydney Airport Corporation Limited (SACL) letter dated 25 November 2016.
 - e. Addition of Condition No. 33(c) requiring a Stage 4 Pre-Opening Road Safety Audit within one month of the signage being implemented.
 - f. Addition of Condition No. 33(d) requiring a road safety check within 12 months of operation but within 18 months of the sign's installation.
 - g. Addition of Condition No. 33(e) requiring that the colour and pattern of the screen frame be complementary to the character and streetscape of the area.
 - h. Addition of Condition No. 33(f) stating that no advertising content is permitted on the screen frame.
 - i. Addition of Condition No. 33(g) prohibiting the animation of the digital signs.
-

Attachments

Planning Assessment Report

Independent Peer Review of Planning Assessment Report

Site and Elevation Plans

Detailed sign construction Plans

Location Plan



Figure 1: Locality Plan

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-05/123/02
Date of Receipt:	13 October 2016
Property:	The pedestrian access bridge (for the Golf Course) erected over Wentworth Avenue at Pagewood Formerly described as part Lot 1 in DP 1144655
Owner:	Bayside Council
Applicant:	Outdoor Systems Pty Ltd
Proposal:	Section 96AA application to modify Development Consent No. 2005/123 approved by the Land and Environment Court for the erection of a bridge and associated third party advertising signage. This Section 96AA Modification Application is Integrated Development and seeks approval for the removal of 2 x existing approved signage structures (not digital) and replacement with 2 x digital signage structures.
Recommendation:	Approval
Value:	\$950,000.00
No. of submissions:	Nil
Author:	Amy Groher – Senior Development Assessment Officer
Independent Peer Review	Emma Bell – Independent Consultant
Date of Report:	21 February 2017

Key Issues

Council received Modification Application No. 05/123/03 on 28 April 2016 seeking consent to modify Development Consent No. 2005/123 approved by the Land and Environment Court for the erection of a bridge and associated advertising signage over Wentworth Avenue for the use of patrons of the golf course. This Section 96AA Modification Application is Integrated Development and seeks approval for the removal of the 2 x existing approved signage structures (not digital) and replacement with 2 x digital signage structures.

As part of the original Court approval, a Deed, dated 17 April 2008, was entered into between the former Council of the City of Botany Bay (“the Landlord”), the Eastlake Golf Club Ltd (“the Tenant”) and Outdoor System Pty Ltd (“Outdoor Systems” – applicant for this s96AA modification) for the lease of the airspace above Wentworth Avenue for the purposes of constructing a bridge and erecting advertising structures.

As identified in the Deed, Council is the owner of Wentworth Avenue and the airspace above which contains the bridge and signage structures. As such, the applicant has sought owner’s

consent for the proposed modification and owner's consent to lodge the s96AA application was granted on 23 February 2017.

The application was placed on public exhibition for a forty-day period from 9 November 2016 to 9 December 2016 and a 30 day period from 20 January to 20 February 2017 as it was noted that the original objectors were not notified as part of the original public exhibition period. No submissions were received during either public notification period.

The key issue relevant to the proposed modification is the assessment of the illumination of the signage. The proposal to convert the existing static signs into digital signs was referred to the Roads and Maritime Services (RMS) for their comment with regard to road safety and the digitalisation of the two static signs.

RMS has reviewed the proposal subject to *State Environmental Planning Policy No 64 (Advertising and Signage)* and has provided concurrence under Section 138 of *Roads Act 1993* with the inclusion of two conditions.

The application was also referred to Sydney Water, APA Group, Sydney Airport Corporation Limited (SACL), Council's Heritage Trust and Strategic Officer, who raised no objections to the proposed modification.

The development application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval, subject to conditions of consent.

Recommendation

It is RECOMMENDED that Council resolve, pursuant to Section 96AA of the *Environmental Planning & Assessment Act 1979*, to modify DA-05/123, which was granted for the erection of a bridge and associated advertising signage over Wentworth Avenue, Pagewood by:

- a. Amending Condition No. 1 to reflect the plans as amended;
- b. Adding Condition No. 22(i)(16) (as recommended by RMS) requiring the submission of a Construction Traffic Management Plan prior to the issue of a Construction Certificate associated with the digital signage;
- c. Adding Condition No. 22(i)(17) (as recommended by RMS) requiring the obtainment of a Road Occupancy Licence from the Transport Management Centre prior to the issue of a Construction Certificate associated with the digital signage;
- d. Amending Condition No. 24 to include additional conditions recommended by Sydney Airport Corporation Limited (SACL) letter dated 25 November 2016;
- e. Addition of Condition No. 33(c) requiring a Stage 4 Pre-Opening Road Safety Audit within one month of the signage being implemented;
- f. Addition of Condition No. 33(d) requiring a road safety check within 12 months of operation but within 18 months of the sign's installation;
- g. Addition of Condition No. 33(e) requiring that the colour and pattern of the screen frame be complementary to the character and streetscape of the area;
- h. Addition of Condition No. 33(f) stating that no advertising content is permitted on the screen frame; and

- i. Addition of Condition No. 33(g) prohibiting the animation of the digital signs.

Background

History

Development Consent No. 2005/123 approved by the Land and Environment Court on 30 November 2006 for:

- The construction of a new pedestrian access bridge over Wentworth Avenue to provide access from one part of the Eastlakes Golf Course to the other, being some 25m in length and 3.3m in width and 5.5m above the existing road level of Wentworth Avenue; and
- The erection of two illuminated third party advertising signage panels to the access bridge being one facing west and one facing east, each being 12.66m x 3.44m in area.

As part of the Court approval, a Deed, dated 17 April 2008, was entered into between the former Council of the City of Botany Bay ("the Landlord"), the Eastlake Golf Club Ltd ("the Tenant") and Outdoor System Pty Ltd ("Outdoor Systems") for the lease of the airspace above Wentworth Avenue for the purposes of constructing a bridge and erecting advertising structures.

The Deed also sets out the following relevant information:

- Pursuant to Clause 14(1)(a) of SEPP 64, the Development Consent in relation to the advertising structures expires 15 years after the date on which the consent became effective and operates in accordance with s83 of the *Environmental Planning and Assessment Act*, namely on 30 November 2021;
- Due to concerns about safety of golfers and the public generally, Council has agreed to lease the airspace above Wentworth Avenue to the Tenant;
- All parties will meet on or prior to May 2020 to agree on terms for a renewal of a DA application for a further term of 15 years.

The bridge was completed on 15 July 2008.

The Eastlakes Golf Course (EGC) land is owned by Sydney Water and leased to EGC for 25 years to 31 December 2025 with a 25 year option. There is a sublease between Sydney Water, EGC and Outdoor Systems (OS) for 3 x 5 year registered leases until the current DA expires on 30 November 2021 for the support structures and entry ramps.

Under the agreement between EGC and OS, ownership of the bridge structure, not including the advertising signs reverts to EGC on the 29 November 2021 with OS continuing to manage the signs until 2035 subject to new approvals. OS is responsible for all costs including maintenance, engineering, safety reports, insurance and per costs for the bridge and supporting structures to 30 November 2021.

Proposal

The development application seeks Council consent to modify Development Consent No. 2005/123 in the following manner:

- Remove two (2) existing 12.66m X 3.44m advertising structures and associated signage each with an area of 43.55sqm;
- Modification to the existing structure to accommodate two digital LED screens with dimensions of 12.48m X 3.2m with a total area of 39.93sqm.

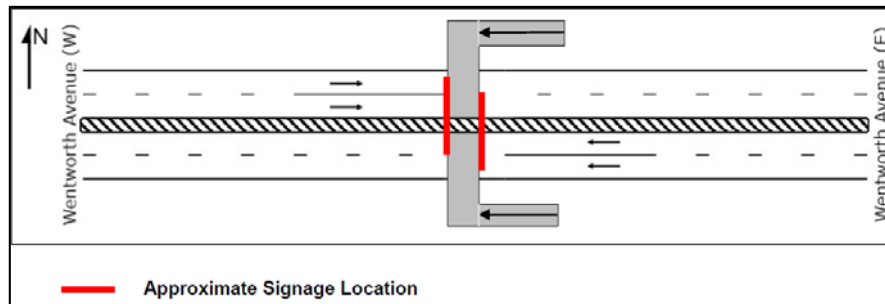


Figure 1: Proposed signage – aerial view

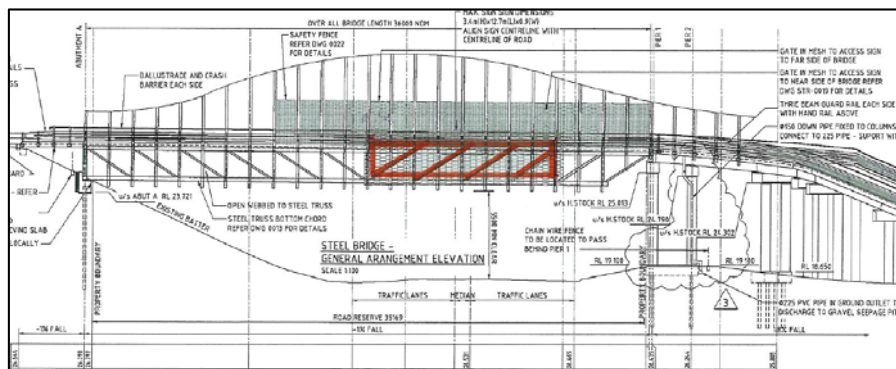


Figure 2: Proposed signage – elevation

Construction Method (taken from the Construction Management Plan)

Work to be done over two nights.

Traffic control will close off the middle two lanes of the 4 lane road for approximately 100m either side of the bridge as per the Traffic Control Management Plan (see below – extract from the Construction Management Plan).

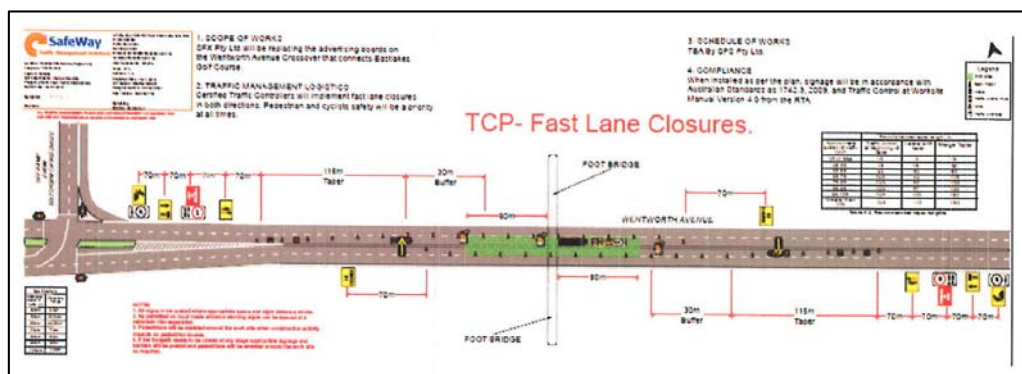


Figure 3: Traffic Control Management Plan

Vehicles required onsite include:

- 1 x boom lift;
- 1 x semi-trailer;
- 1 x crane.

These will be set up in the closed off area in the middle of two lanes.

First Night

- Installers will remove bolts holding existing signs in position.
- Existing signs will be lifted with the crane as per Australian Standards and placed straight onto the semi-trailer.
- These signs will be removed from site.
- Installers will then drill the existing structure rails to accommodate the new sub-structure with digital signs.
- Traffic control will coordinate egress of all vehicles from site.

Second Night

- Crane will lift both the new sub-structures with the digital signs from the semi-trailer onto the existing structure.
- Installers will bolt the structure as per engineering drawings.
- Traffic control will coordinate the egress of all vehicles from the site.

Site Description

DA-05/123 gave approval for the construction of an access bridge erected over Wentworth Avenue at Pagewood, linking the northern and southern parts (both formally described as part Lot 1 in DP 1144655) of the Eastlakes Golf Course for the benefit of users of the golf course.

The exact location of the pedestrian bridge is 450m south-east of the Southern Cross Drive overpass intersection on Wentworth Avenue, Eastlakes and has no formal description. Wentworth Avenue is the border between the suburbs of Eastlakes to the north and Pagewood to the south. The area is low lying, being characterised by the Botany Wetlands to the north, south and west, with localised dunes.



Figure 4: Location Plan

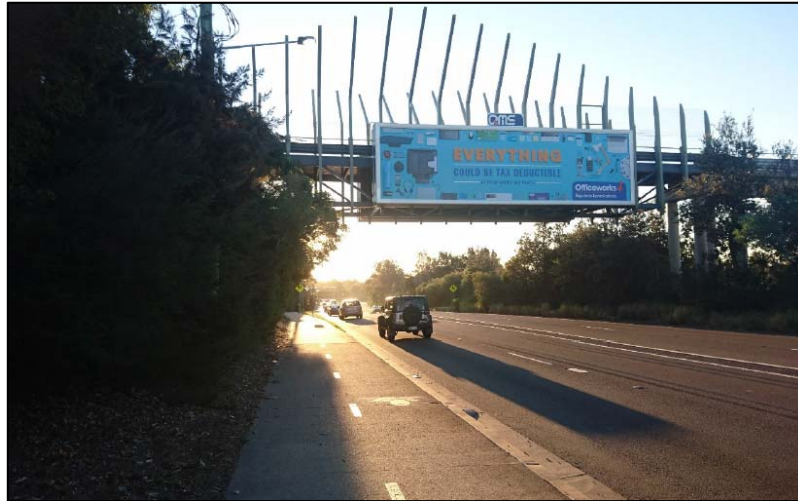


Figure 5: Existing static sign – eastern elevation



Figure 6: Existing static sign – western elevation

Referrals

The table below outlines the referrals involved with the s96AA Modification Application.

Table 1: External and Internal Referrals

Referral	Status
RMS	Referral received 1 December 2016 – No objection, conditions for inclusion provided.
Sydney Water	Email provided 9 January 2017. No objection or comments.
APA Group (proximity to high pressure gas pipeline)	Applicant obtained information that the site is not impacted by the Gorodok Pipeline on 3 January 2017.
SACL	Letter received 21 December 2016. No objection to the erection of this development to a maximum height of 27.3 metres AHD.
Council's Owner's Consent	Owner's consent was granted by Bayside Council on 23 February 2017. While the current status of the ownership of the road (Wentworth Avenue) is unclear, the Court assumed Council as

Referral	Status
	owner of the road and airspace above for the purposes of the Land and Environment Court proceedings (Case Number 11019 of 2005) for the original proposal to erect a pedestrian bridge and advertising signage on either side. Council have provided owner's consent in-line with this ruling. Further, the Court concluded that <i>it is not necessary to express any concluded view as to the present ownership of the road.</i>
Strategic Officer	Response received 20 December 2016. No objections.
Heritage Trust	Response received 20 December 2016. No objections.
Property Officer (advice as to whether the Deed needs to be updated)	There is no requirement to amend the Deed at this stage.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

S.79C(1) - Matters for Consideration – General

S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

EPA (Division 10) and Environmental Planning Regulation 2000 (Part 5) – Existing Use Rights

The proposed use is defined as *signage* under the BBLEP 2013 and is not permissible in the SP2 Infrastructure zone. Permitted with consent, the SP2 zone only allows for *Roads and the purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose*. While road signage would be classified as *ancillary to a road*, the purpose of the subject sign is not for traffic direction or information but for commercial gain, and as such, is not considered *ancillary* to the primary purpose being a road.

Notwithstanding the above, Section 107 of the *Environmental Planning and Assessment Act 1979* (EPA) states “*except where expressly provided in this Act, nothing in this Act or an environmental planning instrument prevents the continuance of an existing use*”.

The use was established as a pedestrian access bridge over Wentworth Avenue including the erection of two illuminated third party advertising signs. Approval was given on 30 November 2006 and has remained unchanged since its construction in 2008.

The applicant seeks consent for the removal of the 2 x existing approved signage structures (not digital) and replacement with 2 x digital signage structures under the existing use rights provisions of the *Environmental Planning and Assessment Act 1979*.

Section 43 of the *Environmental Planning Regulation 2000* (EPR) provides that *development consent is required for any alterations or extension of a building used for an existing use, and that the alteration or extension:*

- (a) Must be for the existing use of the building or work and for no other use; and*
- (b) Must be erected or carried out only on the land on which the building for work was erected or carried out immediately before the relevant date.*

The proposed change is for the existing use which is a pedestrian access bridge with two illuminated third party advertising signs and will be carried out on the lot/area to which the advertising signs were initially erected. As stated above, the advertising signs were approved in 2006 and constructed in 2008, which is prior to the BBLEP 2013 coming into force.

Planning principles in relation to the assessment of development applications based on existing use rights were stated by Senior Commissioner Roseth in *Fodor Investments v Hornsby Shire Council* (2005) 141 LGERA 14 and have been addressed with respect to the proposed alterations and additions as follows:

Principle 1: *'How do the bulk and scale (as expressed by height, floor space ratio and setbacks) of the proposal relate to what is permissible on surrounding sites?'*

The proposed change does not alter the approved height of the bridge. The two digital signs are slightly smaller than the original static illuminated signs (original approved 2 x 43.55sqm signs and proposed 2 x 39.93sqm signs) and as such, will not increase the bulk and scale of what was originally approved.

The existing signage devices are already illuminated and as such there are no illumination impacts over and above what is already experienced. Currently the static illuminated signs are manually changed. The digital signage will mean that the advertisements can be automatically changed without any manual handling.

Principle 2: *'What is the relevance of the building in which the existing use takes place?'*

The existing access bridge provides access from the northern part to the southern part of the golf course for patrons. The relevance to the proposal is that the advertising signs make use of the vehicular traffic travelling east and west on Wentworth Avenue. There will be no change with regard to this.

Principle 3: *'What are the impacts on the adjoining land?'*

A Stage 2 Concept Design Road Safety Audit prepared by McLaren Traffic has been submitted with the application which concludes that there is no impact on road safety resulting from the digital signage. The closest residential dwellings are 250m to the south-east and will not experience any illumination impacts above and beyond what is currently experienced, given that the existing static signs are currently illuminated.

Principle 4: *'What is the internal amenity?'*

There is no internal amenity. The proposal does not relate to a building.

As the proposed development relies on existing use rights, the controls within SEPP 64, BBLEP 2013 and BBDCP 2013 do not apply. Notwithstanding this, the proposed change is to be merit assessed and must be assessed against a benchmark in order to determine whether the nature and extent of the proposed change is acceptable in the circumstances. Given this, the development standards and controls contained within SEPP 64, BBLEP 2013, and the controls within the BBDCP 2013, provide a relevant benchmark for a merit assessment. As such, the proposed development has been assessed against these controls, which are set out below.

State Environmental Planning Policy No. 64 – Advertising and Signage

The Section 96AA Modification Application is for the conversion of 2 existing static signs into 2 x digital signs on the golf course pedestrian bridge over Wentworth Avenue.

The proposed signage will not be animated but rather will constitute a changeable digital static display.

The proposed signage is defined under the following Clauses of SEPP 64:

- Clause 16 – Transport corridor land;
- Clause 17 – Signage that has a display area greater than 20 square metres (the proposed signage has a total display area of 39.93sqm);
- Clause 18 – Advertisements greater than 20sqm and within 250m of, and visible from, a classified road; and
- Clause 24 – Advertisements on bridges.

Clause 8 of SEPP 64 states that the consent authority must not grant consent to an application to display an advertisement to which this clause applies unless:

The signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and satisfies the assessment criteria in Schedule 1.

Accordingly, the proposal for signage has been assessed against Clauses 8, 16, 17, 18 and 24 of SEPP 64 which requires Council to determine consistency with the objectives stipulated under Clause 3(1) (a) of the SEPP and to assess the proposal against the assessment criteria of Schedule 1.

The objectives stipulated under Clause 3(1)(a) are:

- a) to ensure that signage (including advertising):*
- (i) is compatible with the desired amenity and visual character of an area, and*
 - (ii) provides effective communication in suitable locations, and*
 - (iii) is of high quality design and finish.*

The applicant has addressed the matters of consideration contained in Schedule 1. The applicant and Council's response is outlined in the table below.

Table 2: Assessment against SEPP 64

Matters for Consideration	Applicant Response	Council Response
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Matters for Consideration	Applicant Response	Council Response
<p>1. Character of the area</p> <p>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</p>	<p>The bridge and associated signage was approved at appeal in 2006 in DA 05/123 and has been in existence since 2008. It has thus become an established part of the local environment.</p> <p>The modification of the signage to digital technology will not alter the state of compatibility of the signage with the locality but rather simply maintain what already exists in a contemporary manner.</p>	<p>Complies.</p> <p>The proposed signs are a replacement of the existing signs. However instead of manually changing the sign, the display will be illuminated and on automatic rotation. The proposed signage is consistent with the existing and desired future character of the locality.</p>
<p>Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?</p>	<p>Given the history of the approved signage the modification is compatible with the character which has been established for a number of years.</p> <p>There is otherwise no identified theme for the local area.</p>	<p>Complies.</p> <p>There is no particular theme for outdoor advertising in the existing area. The bridge is over Wentworth Avenue in a section which is not immediately surrounded by buildings or other signage.</p>
<p>2. Special areas</p> <p>Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?</p>	<p>Environmental issues were considered by the Land & Environmental Court in its consideration of the matter and were related to the construction of the bridge rather than the signage. As such no issue is raised by the proposed notification.</p> <p>With respect to the golf course the amenity remains the same due to the fact that the intrinsic nature of the signage remains the same.</p>	<p>Complies.</p> <p>There exists Eastern Suburbs Banksia Scrub on the adjacent land on the northern side of Wentworth Avenue. The impact on this ecological community was assessed by the Land and Environment Court. The conversion of the existing signage to digital signage will not impact on this species or any environmentally sensitive, heritage or residential areas.</p>
<p>3. Views and vistas</p> <p>Does the proposal obscure or compromise important views?</p>	<p>There are no special views or vistas obscured or impacted by the proposed modification to the signage on the site.</p>	<p>Complies.</p> <p>There are no views available to be affected by the signs.</p>
<p>Does the proposal dominate the skyline and reduce the quality of vistas?</p>	<p>The location on the bridge is as per the existing signage with a slightly smaller footprint.</p>	<p>Complies.</p> <p>The proposed signage does not dominate the skyline and will fit within the area of the existing signage structures.</p>
<p>Does the proposal respect the viewing rights of other advertisers?</p>	<p>N/A</p>	<p>Complies.</p> <p>There are no other advertisers in the immediate area.</p>

Matters for Consideration	Applicant Response	Council Response
4. Streetscape, setting or landscape Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The proportions of the modified signage are essentially the same as the existing signage.	Complies. The proposed digital signage is slightly smaller than the existing static signs and results in approximately 3sqm less surface area. As such, the proposed signage is not above and beyond the scale, proportion or form of what currently exists.
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The modified signage will continue to display simple static messages designed for immediate impact albeit in a digital format and does not contribute to clutter.	Complies. The proposed signage will replace like for like in terms of clutter. There will be no resulting additional clutter.
Does the proposal screen unsightliness?	N/A	Complies. The proposed signage will replace like for like in terms of screening unsightliness. The pedestrian bridge is not unsightly; moreover the signage makes use of the bridge elevations for advertising purposes.
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The footprint of the modified signage is essentially the same as the existing signage within the envelope of the bridge.	Complies. The bridge and signage sit roughly at the same level as the tree canopies.
5. Site and building Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The modified signage is horizontal and matches the proportions of the bridge it is erected upon as per the existing signage.	Complies. The proposed signage will replace like for like in terms of scale and proportion.
Does the proposal respect important features of the site or building, or both?	The modification does not raise and such issue and remains substantially the same as the existing signage. RMS has also advised it will complete a full engineering assessment to ensure structural integrity.	Complies. The proposed signage is substantially the same as the existing signage and is consistent with that of the built form (bridge).
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The modified signage adopts digital technology which requires little maintenance and does not require safety devices, platforms etc. making for a more streamlined contemporary product and efficient safer change of message.	Complies. The proposed digital signage will create efficiencies in terms of changing the advertising display.
6. Associated devices and logos with	The digital displays and service platform at the rear are	Complies. The applicant has confirmed that

Matters for Consideration	Applicant Response	Council Response
<p>advertisements and advertising structures</p> <p>Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?</p>	<p>integrated into the structural frame and completely self-contained. There are no external fittings.</p>	<p>the digital displays and service platform are integrated into the structural frame.</p>
<p>7. Illumination</p> <p>Would illumination result in unacceptable glare?</p> <p>Would illumination affect safety for pedestrians, vehicles or aircraft?</p> <p>Would illumination detract from the amenity of any residence or other form of accommodation?</p> <p>Can the intensity of the illumination be adjusted, if necessary?</p>	<p>No potential effect is apparent noting that the signage illumination will be in accordance with the Transport Corridor Outdoor Advertising and Signage Guidelines.</p> <p>No, the site has a history of approved illuminated signage and the signage remains as originally approved oriented in each direction.</p> <p>No potential effect is apparent noting that illumination will be in accordance with the Transport Corridor Outdoor Advertising and Signage Guidelines. The nearest residences are some 300m to the east.</p> <p>Yes however the Transport Corridor Outdoor Advertising and Signage Guidelines will be adhered to.</p>	<p>Complies.</p> <p>The application is accompanied by a Stage 2 Concept Design Road Safety Audit prepared by McLaren Traffic.</p> <p>The report provides the following:</p> <ul style="list-style-type: none"> • The design of the signs will be in accordance with the digital sign criteria given in the Draft 2015 Transport Corridor Outdoor Advertising and Signage Guidelines; • There is no impact on road safety resulting from the digital signage with regard to conflict with traffic signals as the proposed display will not involve red, green or amber colours (which is strictly contrary to the signage relevant controls and guidelines); and • There are no unacceptable impacts to road safety if the sign's contents, brightness, refresh time; dwell time and reflectiveness conform to the relevant standards and guidelines. Further, the existing signage is lit during the night hours and the conversion to digital signage will not introduce a new feature to the road landscape.
<p>8. Safety</p> <p>Would the proposal reduce the safety for any public road, pedestrians or bicyclists?</p>	<p>As above.</p>	<p>Complies.</p> <p>The Stage 2 Concept Design Road Safety Audit prepared by McLaren Traffic confirms that there is no impact on road safety resulting from the digital signage. This has been referred to NSW RMS and accepted in a letter dated 1 December 2016.</p>

The proposed signage is considered to be consistent with the aims and objectives of SEPP 64 and satisfies the assessment criteria of the policy, particularly safety and illumination (of

which an assessment against the Transport corridor outdoor Advertising and Signage Guidelines – November 2015 have been provided at Annexure B of the Stage 2 Concept Design Road Safety Audit prepared by McLaren Traffic.

The proposed digital signage replaces the existing static signs and results in signage with smaller dimensions and overall area.

The proposed signage is substantially the same development and is consistent with the existing signage.

Botany Bay Local Environmental Plan 2013

The provisions of the BBLEP 2013 have been considered in the assessment of the Development Application and the following information is provided:

Table 3: BBLEP 2013 Compliance Table

Principal Provisions of BBLEP 2013	Compliance (Yes/No)	Comment
Land Use Zone	Yes	The site is zoned SP2 Classified Road under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed use as <i>signage</i> is not considered ancillary to the purpose shown on the Land Zoning Map, which is a Classified Road, and as such, is not permitted with consent. An assessment against the Existing Use Rights provisions has been provided further in the report.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development is consistent with the objectives of the zone which are as follows: <ul style="list-style-type: none"> • <i>To provide for infrastructure and related uses.</i> • <i>To prevent development that is not compatible with or that may detract from the provision of infrastructure.</i>
What is the height of the building? Does the height of the building comply with the maximum building height?	N/A	Not Applicable.
What is the proposed FSR? Does the FSR of the building comply with the maximum FSR?	N/A	Not Applicable.
5.10 – Heritage Conservation	Yes	The area on either side of the bridge is identified as a State Heritage Item being the Botany/ Daceyville/ Eastlakes/ Mascot/ Pagewood Botany Water Reserves. It encompasses about 200ha

Principal Provisions of BBLEP 2013	Compliance (Yes/No)	Comment
		between Mascot and Botany extending from the northern shore of Botany Bay to Gardeners Road including the Lakes and Eastlakes Golf Courses and Mill and Engine Ponds. The signage does not impact on the heritage item. Council's Strategic Officer has advised that there are no heritage related issues with the proposed development.
The following provisions in Part 6 of the LEP apply to the development:	N/A	The bridge exists and there are no excavation works proposed.
<ul style="list-style-type: none"> • 6.1 – Acid Sulfate Soils (ASS); 		
<ul style="list-style-type: none"> • 6.2 – Earthworks; 	N/A	There are no earthworks proposed.
<ul style="list-style-type: none"> • 6.3 – Stormwater management; 	Yes	Stormwater management is not relevant to the proposed development.
<ul style="list-style-type: none"> • 6.8 – Airspace operations; 	Yes	A maximum building height of 15.24m applies to the site in accordance with the Obstacle Limitation Surface Map. The maximum height of the bridge is 14.17m, with the top of the sign sitting at approximately 9m and therefore complies with Part 6.8 of the BBLEP 2013. SACL have provided a letter dated 21 December 2016 confirming that they have no objection to the erection of the proposed development to a maximum height of 27.3m AHD.

The objectives and provisions of the BBLEP 2013 have been considered in relation to the subject development application. The proposal is satisfactory in terms of the BBLEP 2013.

S.79C(1)(a)(ii) - Provisions of any Draft Environmental Planning Instruments

There are no current Draft Environmental Planning Instruments applicable to this development.

S79C(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application.

Botany Bay Development Control Plan 2013

The following is an assessment of the proposed development against the relevant provisions of this DCP as they relate to signage.

Part 3B – Heritage

Refer to Table 3, Part 5.10.

Part 3J- Aircraft Noise and OLS

Refer to Table 3, Part 6.8.

Part 3D – Signage

The development application has been assessed against the controls contained in *Part 3D of the DCP – Signage*. This DCP has been prepared with consideration of the provisions of SEPP 64 and should be read in conjunction with it and its Guidelines.

Table 4: BBDCP 2013 Compliance Table

Control	Proposed	Complies (Yes/No)
3D.3.1 Illuminated and Animated Signage		
Illuminated Signage C1 The lighting intensity must not unreasonably impact on any residential properties adjoining the sign or that is within its locality.	There are no residential properties that are likely to have direct views to the signage. Currently the signage is illuminated at night and the proposed signage will not alter this arrangement.	Yes
C2 All illuminated signage, larger than 1m ² that is adjacent or in the vicinity to residential dwellings must be switched off between 10pm and 6am daily.	Currently the signage is illuminated at night and the proposed signage will not alter this arrangement.	Yes
C3 Electric wiring to illuminated signage is to be concealed.	The applicant has confirmed that the digital displays and service platform at the rear are integrated into the structural frame and completely self-contained. There are no external fittings.	Yes
C4 Illuminated signage is encouraged to be powered by solar power.	The applicant has confirmed that the LED digital screens will be powered by the existing supply on Wentworth Avenue. Solar power is not a requirement.	Yes
C5 Illuminated signage must minimise the spill effects or escape of light beyond the subject sign and must not compromise safety for pedestrians, vehicles or aircraft.	Luminance levels must comply with the requirements in Table 3 of the Transport Corridor Outdoor Advertising and Signage Guidelines – November 2015.	Yes
C6 Illumination of a sign (with the exception of floodlit signs) must not be external to the sign i.e. surrounding the sign. Illumination must be part of the sign.	Illumination is contained within the signs.	Yes

Control	Proposed	Complies (Yes/No)
Animated Signage C7 Animated signage will only be permitted where it is considered that there is artistic merit in the design or on a temporary basis in connection with a special event of a religious, community or cultural nature. There are no other circumstances where Council would permit animated signs.	The proposed signage is not animated. The display will change automatically, as opposed to manual display change.	N/A

Part 8 – Character Precinct

Part 8.3 Pagewood Character Precinct of the BBDCP 2013 is the most relevant character precinct applicable to the proposed signs. The Pagewood Character Precinct boundary runs along the middle of Wentworth Avenue.

The desired future character in relation to Public Domain and Environment seeks to:

- *Promote increased public access to the Botany wetlands and the golf course system.*
- *Provide sufficient open space to meet a variety of recreational needs.*
- *Encourage open space areas within the Precinct to cater for a variety of recreational needs.*
- *Encourage landscaping and vegetation planting within both the public and private domain of the precinct to soften the built form, promote pedestrian comfort and enhance the aesthetics of the neighbourhood.*
- *Preserve residential amenity by reducing impacts from non-residential uses such as traffic, noise and air pollution.*

The proposal is not inconsistent with the existing and desired future character of the Pagewood Character Precinct.

S.79C(1)(a)(iv) - Provisions of Regulation

Clause 92 of the Regulation has been considered. The proposal does not involve demolition.

S.79C(1)(b) - Likely Impacts of Development

The proposed development will have no significant adverse environmental, social or economic impacts in the locality. The proposed signage has been assessed against the aims and objectives of SEPP 64 and satisfies the assessment criteria of the policy, particularly safety and illumination (of which an assessment against the Transport Corridor Outdoor Advertising and Signage Guidelines – November 2015 have been provided at Annexure B of the Stage 2 Concept Design Road Safety Audit prepared by McLaren Traffic).

S.79C(1)(c) - Suitability of the site

The suitability of the advertising structures was assessed under DA-05/123 and considered appropriate. The existing signage structures will be replaced and new structures fixed to the bridge.

S.79C(1)(d) - Public Submissions

No submissions have been received.

S.79C(1)(e) - Public interest

Granting approval to the proposed development is not contrary to the public interest as it will replace the existing static signs with digital signs. The applicant further notes that *“the modification to digital has the added public, pedestrian and motorist safety benefit of removing the physical input required to manually change the skins on the signage at the end of each promotion. Occupational health and safety benefit accrue through the elimination of the risks associated with removing and replacing the heavy vinyl skins immediately above the road.”*

S.96AA Considerations

In considering the Section 96AA Modification Application, the matters listed in Section 96AA of the *Environmental Planning and Assessment Act 1979* have been taken into consideration in the preparation of this report as follows:

S.96AA(1)(a) - Substantially the same development

The applicant justifies that the proposed modified digital panels are substantially the same development for the following reasons:

- *“The development remains the same as the area, dimensions and proportions of the signage is not significantly different to the original;*
- *The modification retains the number of signs being two as per the original approval;*
- *The location/footprint of the signage on the bridge is in the same position as originally approved;*
- *The modified development will be utilised for advertising content as per the original approval;*
- *As the first modification to the original approval the proposal does not result in anything but a small modification to the original approval;*
- *The modification results in an essentially superficial alteration to the signage by adoption of digital technology however the fundamental nature of the development remains signage as originally approved.”*

The above reasons are supported and the modifications will result in substantially the same development as that approved under DA-05/123 by the Land and Environment Court being for:

- The construction of a new pedestrian access bridge over Wentworth Avenue to provide access from one part of the Eastlakes golf Course to the other, being some 25m in length and 3.3m in width and 5.5m above the existing road level of Wentworth Avenue; and
- The erection of two illuminated third party advertising signage panels to the access bridge being one facing west and one facing east, each being 12.6m x 3.4m in area.

S.96AA(1)(b)(c) - Notification

In accordance with Part 2 - Notification & Advertising of the Botany Bay Development Control Plan 2013, the Section 96AA Modification Application was placed on public exhibition for a thirty day period from 9 November 2016 to 9 December 2016 and a 30 day period from 20 January to 20 February 2017 as it was noted that the original objectors were not notified as part of the original public exhibition period. No submissions were received during either public notification period.

Council has notified, or made reasonable attempts to notify, each person who made a submission in respect of the original development application.

S.96AA(1)(d) - Submissions

No submissions have been received.

Conclusion

Development Application No. 05/123/02 has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979*.

Clause 8 of the SEPP 64 (Advertising and Signage) states that a consent authority must not grant development consent to an application to display signage unless the consent authority is satisfied:

- a) *that the signage is consistent with the objectives of this Policy as set out in clause 3 (1) (a), and*
- b) *that the signage the subject of the application satisfies the assessment criteria specified in Schedule 1.*

The proposed development satisfies Clause 8 of the SEPP 64 and is recommended for approval subject to conditions of consent (as modified) being:

- Amend Condition 1 to reference the plans (as amended);
- A new Condition 22(i)(16) &(17) in relation to additional conditions from RMS;
- Additional wording at Condition 24 to include compliance with the comments issued by SACL in letter dated 25 November 2016; and
- New Conditions 33 (c) – (h) relating to colour, safety audit, content and animation of the proposed digital sign.

Attachment

Schedule 1 – Conditions of Consent

Premises: Bridge and advertising signage at Eastlakes Golf Course, Wentworth Avenue

DA No: 05/123/02

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

1. The development shall be carried out in accordance with the development application received by Council on 28 September 2004 and the following plans and documentation, except where amended by the conditions of the Consent:
 - (i) Plans identified as Drawings STR - Rev A, numbers 0000-0007 for Project No. 2122718A prepared by Parsons Brinckerhoff and dated 28 September 2006, **and amended by STR – Revision 3, Number 0002 and as amended in red and received by Council 13/10/2016. (DA-05/123/02)**
 - (ii) Plans identified as Drawing Numbers SD03 Issue Band SD04 Issue B for Project No. 2005-13 prepared by ADM Architects and dated 28 September 2006.
 - (iii) Detailed Survey Drawing No 110899001 Rev 6 prepared by Hard and Forester dated 22 May 2006.
 - (iv) Heritage Impact Statement prepared by Rappoport Pty Ltd dated September 2004.
 - (v) Statement of Environment Effects prepared by Turnbull group Pty Ltd and received by Council on 28th September 2004.
 - (vi) **General Arrangement Plan, Drawing Number S01.01, prepared by Engineering Studio, Revision B, dated 05/09/2016. (DA-05/123/02)**
 - (vii) **Steel Framing Plan & Elevations, Drawing Number S01.02, prepared by Engineering Studio, Revision B, dated 05/09/2016. (DA-05/123/02)**
 - (viii) **Steelwork Details Sheet, Drawing Number S01.03, prepared by Engineering Studio, Revision B, dated 05/09/2016. (DA-05/123/02)**
2. The consent given does not imply that works can commence until such time that:-
 - (i) detailed plans and specifications of the infrastructure work have been endorsed with a Construction Certificate by:-
 1. the consent authority; or,
 2. an accredited certifier; and,
 - (ii) the person having the benefit of the development consent:-
 1. has appointed a principal certifying authority; and,
 2. has notified the consent authority and the Council (if the

Council is not the consent authority) of the appointment; and,

(iii) the person having the benefit of the development consent has given at least 2 days' notice to the council of the of the persons intention to commence the erection of the building.

3. DELETED

4. Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual - Chapter 171 and the Protection of the Environment Operations Act 1997.

5. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.

6. The Applicant shall prior to the issue of a Construction Certificate provide evidence to the reasonable satisfaction of the Council that the Applicant has entered into a lease or licence with the owner in fee simple of the airspace of Wentworth Ave to permit the lawful use and occupation of the bridge by the Applicant as a bridge and for the advertising the subject of this consent.

7. Prior to the issue of the Occupation Certificate the Applicant shall provide evidence to the reasonable satisfaction of the Council that any overhead cables in the vicinity of the bridge have been relocated in accordance with the technical requirements of the owners of the cables.

8. Council to be indemnified for all liability associated with the bridge.

9. No bridge support or footings must be located within the road reserve.

10. DELETED

11. DELETED

12. DELETED

13. DELETED

14. Care must be taken to protect Council's roads, including the made footway, kerbs, etc. and where plant and vehicles enter the site. Protecting constructions shall be maintained in a state of good repair and condition throughout the course of construction and kept in a safe condition. The area must be safe for pedestrian traffic at all times. Any damage to Council's road reserve will be repaired and the full cost shall be borne by the applicant.

15. The use of any part of Council's road reserve or other Council lands must have prior approval of Council. For example, should the development require a building waste container(s) (building skip), then such container shall not be placed or left on a public road or road related area (e.g. footpath, nature strip, shoulder, road reserves, public carparks, service stations, etc.) without the prior approval of Council's Engineering and Regulatory Services Department.

16. Building operations such as brick cutting, washing tools or brushes and mixing

mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.

17.

- (i) A Soil and Water Management Plan (also known as an Erosion and Sediment Control Plan) shall be prepared according to NSW EPA's Managing Urban Stormwater: Construction Activities and submitted to Council prior to issuing of the Construction Certificate.
- (ii) This Plan shall be implemented prior to commencement of any site works or activities. All controls in the Plan shall be maintained at all times. A copy of the Soil and Water Management Plan shall be kept on-site at all times and made available to Council Officers on request.

18. If the work involved in the construction works:-

- (i) is likely to cause pedestrians or vehicular traffic in a public place to be obstructed or rendered inconvenient; or,
- (ii) building works involves the enclosure of a public place:
 - 1. a hoarding or fence must be erected between the work site and the public place.
 - 2. if necessary an awning is to be erected sufficient to prevent any substance from or in connection with the work falling into the public place.
 - 3. The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to person(s) in the public place.
 - 4. Any such hoarding, fence or awning is to be removed when the work has been completed.

19. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:-

- (i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.
- (ii) Negotiate with the utility authorities (e.g. Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with the relocation and/or adjustment of the services affected by the construction. Any costs in the relocation, adjustment or support of services are to be the responsibility of the developer.

20. Prior to the issue of the Construction Certificate, the applicant shall contact "Dial Before You Dig on 1100" to obtain a Service Diagram for and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Council for our records.

21.

- (i) Any services (or underground structures) located during the work shall be re-located at the applicant's expense and to the satisfaction of the services (or underground structures) owner and Council.
- (ii) Any costs in the relocation, adjustment, provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

22.

- (i) Compliance with the following Terms and Conditions of the Roads and Traffic Authority:

1. The proposed bridge must meet the Authority's Pedestrian Bridge Design Practice, with the Australian Bridge Design Code and all other Australian Standards as appropriate.
2. The bridge design shall comply with the RTA's Bridge Policy Manual. The standard of drafting should be consistent with the RTA's Structural Drafting Manual. Copies of these documents can be purchased by contacting Peter Fox on 88370848.
3. The design should also incorporate safety screens on the bridge, which comply with RTA Technical Direction TO 2002/RS02. (Copy attached).
4. A minimum height clearance of 5.5m above the road is required.
5. All work to be in accordance with the RTA document, "Private Sector Development Work on the State Road Network, Notes for Developers".
6. If the bridge is to cater for cyclists reference should also be made to the RTA's Bicycle Guideline.
7. The Club being responsible for all ongoing inspection and maintenance of the bridge in perpetuity.
8. The RTA to be indemnified for all liability associated with the bridge.
9. The developer is to submit to the RTA a concept design for the proposed pedestrian bridge for approval prior to the detail design.
10. After the RT A has approved the concept design, the developer is to forward detail drawings to the RTA for comment prior to construction.
11. The Authority would not be in favour of any new structures (abutments) being constructed within the road

reserve.

12. All works / regulatory signposting associated with the subject development shall be at no cost to the RTA.
13. Advertising on the bridge to be for a limited period (not **beyond 31 December 2025**) to allow the Club to recover construction costs only.
14. Advertising to be in accordance with RTA policies and guidelines. Details could be obtained by contacting Philip Oliver on 8814 2960.
15. All advertising will have to meet the requirements of the State Environmental Planning Policy No 64. All proposed advertising signs must not have / use:
 - Flashing lights;
 - Electronically changeable messages;
 - Animated display, moving parts or simulated movement;
 - Complex display that holds a driver's attention beyond 'glance and appreciation';
 - Displays resembling traffic signs or signals; and A method and level of illumination that distracts or dazzles.
16. ***A Construction Traffic Management Plan detailing construction vehicle routes, number of trucks, hours of operation, access arrangements and traffic control should be submitted to Council prior to the issue of a Construction Certificate associated with the digital signage. (DA-05/123/02)***
17. ***A Road Occupancy Licence shall be obtained prior to the issue of a Construction Certificate for the associated digital signage from the Transport Management Centre for any works that may impact on traffic flows on Wentworth Avenue during construction activities. (DA-05/123/02)***

(ii) Compliance with the following Terms and Conditions of the NSW Heritage Office:

1. An application under section 60 of the Heritage Act is to be submitted to and approved by the Heritage Council prior to the commencement of construction for that part of the development within the listing boundaries of the State Heritage Register.
2. Section 60 application is to be accompanied by a landscape plan which shows the location and surface treatment of pathways which minimize the disturbance of Eastern Suburbs Banksia Scrub and areas of replacement planting around the

bridge and pathways with locally indigenous vegetation of Eastern Suburb Banksia Scrub species to the satisfaction of the Director of the Heritage Office.

3. Copies of the reports provided pursuant to conditions 38 and 39 shall be provided to the Director of the Heritage Office.
4. The Section 60 Application is to be accompanied by details of any proposed directional signage to the satisfaction of the Director of the Heritage Office.

(iii) Compliance with the Terms and Conditions of the Department of Infrastructure, Planning and Natural Resources:

1. All works proposed must be designed, constructed and operated to minimize sedimentation, erosion and scour of the banks or bed of the watercourse/foreshore and to minimize adverse impacts on aquatic and riparian environments.
2. Erosion and sediment control measures are to be implemented prior to any works commencing at the site and must be maintained, for as long as necessary after the completion of works, to prevent sediment and dirty water entering the watercourse/foreshore environment. These control measures are to be in accordance with the requirements of Council or the consent authority and best management practices as outlined in the NSW Department of Housing's "Managing Urban Stormwater: Soils and Construction" Manual (1998) - the 'Blue Book'.
3. The Part 3 A Permit from the Department is issued for works on FREEHOLD land only. This Permit is null and void for any works on Crown Land.
4. Rehabilitation of the area in accordance with the 3A Permit Conditions or any direction from the Department is the responsibility of the Permit holder and the owner or the occupier of the land.
5. Work as executed survey plans of a professional standard and including information required by the Department shall be provided to the Department on request.
6. If, in the opinion of a Departmental Officer, works are carried out in such a manner that they may damage or adversely affect the watercourse or foreshore environment, the Departmental Officer may issue an oral or written direction to immediately stop all work/so
7. If any of the Department's Part 3 A Permit Conditions are breached, the Permit holder shall restore the site in accordance with these Conditions and any other necessary remedial actions as directed by the Department. If any breach of the Part 3A Permit Conditions requires a site inspection by the Department, then the permit holder shall pay a fee prescribed by

the Department for this inspection and all subsequent breach inspections.

23. DELETED

24. Compliance with the Terms and Conditions of Sydney Water **and Sydney Airport Corporation Limited (SACL) as per letter dated 25 November 2016. (DA-05/123/02)**

25. The developer is to forward construction plans for the bridge to Sydney Water for approval prior to issue of the Construction Certificate.

26. DELETED

27. Prior to the issue of Occupation Certificate, a Certificate of Survey from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that all reduced levels heights, dimensions, etc. shown upon the plans approved under the Development Application, have been strictly adhered to.

28. Building works associated with the erection of the bridge shall be carried out between the following hours:

Monday to Friday, inclusive 7.00 a.m. to 5.00 p.m.

Saturday 7.00 a.m. to 5.00 p.m.

Sundays and Public Holidays - No work

29. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:

- (i) stating that unauthorised entry to the work site IS prohibited;
- (ii) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
- (iii) the Development Approval number; and
- (iv) the name of the Principal Certifying Authority including an after hours contact telephone number.
- (v) any such sign is to be removed when the work has been completed.

30. Prior to use and occupation of the bridge an Occupation Certificate must be obtained under Section 109(c)(1) and 109M of the Environmental Planning and Assessment Act 1979; and

31.

a) The applicant must prior to the obtainment of the approved plans and specifications pay the following fees:-

- (i) Development Control..... \$770.00

(ii) Builder's Damage Deposit\$20,000.00

- b) Prior to the release of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 must be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government fee and can change without notice.

32.

- a) DELETED
- b) DELETED
- c) The advertising signs are to be installed with a light box with the approximate luminance level from 15 metres of 36 Lux when luminance readings are taken with an approved Digital Light Meter.

33.

- a) All building works must comply with the provisions of the Building Code of Australia;
- b) The balustrade on either side of the Bridge must, in respect of its height when measured between floor level (of the bridge) and hand rail, not exceed 1.2m.
- c) ***Within one month of the signage being implemented, the applicant is to organise for a Stage 4 Pre-Opening Road Safety Audit to be undertaken, which involves the assessment and reporting of the safety impacts of specific design features on the road environment.***
- d) ***A road safety check which focuses on the effects of the placement and operation of all signs over 20sqm must be carried out in accordance with Part 3 of the RMS Guidelines for Road Safety Audit Practices after a 12 month period of operation but within 18 months of the signs installation. The road safety check must be carried out by an independent RMS accredited road safety auditor. A copy of the report is to be provided to RMS and Council, and any safety concerns identified by the auditor relating to the operation or installation of the sign must be rectified by the applicant.***
- e) ***The colour and pattern of the screen frame is to be complementary to the character and streetscape of the area.***
- f) ***No advertising content is permitted on the screen frame.***
- g) ***The digital signs are not to be animated.***

(DA-05/123/02)

34. Prior to the commencement of work, the principal building contractor must obtain from all landowners their written consent to enter upon their land for construction activity.
35. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 05/123 dated as 24 September 2004 and that any alteration, variation, or extension to the use, for which approval has been given would require further Approval.
36. The development shall be carried out in accordance with the Eastern Suburbs Banksia Scrub Vegetation Management Plan prepared by Eco Logical 2006.

37. Condition required by the Court

A Construction Certificate shall not issue until after Council receives a copy of certification from a Structural Engineer prepared in accordance with Part A2.2 - SCA certifying that the design of the proposed bridge complies in all respects with the following Standards:-

- a) AS 1170 Parts 1,2 & 4 (Minimum design loads on structures):
 - b) AS 3600 (Concrete Structures): and
 - c) AS 4100 (Steel Structures).
38. During construction Mr Will Introna (or in the event of him being unable to do so someone with the equivalent experience and qualifications and accepted by the Council) shall report monthly in writing to the Council reporting on the measures that have been undertaken pursuant to the Vegetation Management Plan ("VMP") and the extent of compliance and non-compliance with the VMP. The Applicant shall bear the costs of such reporting requirements.
 39. After the issue of the Occupation certificate Mr Will Introna (or in the event of him being unable to do so someone with the equivalent experience and qualifications and accepted by the Council) shall report in writing to the Council reporting on the measures that have been undertaken pursuant to the VMP and the extent of compliance and non-compliance with the VMP. The Applicant shall bear the costs of such reporting requirements.
 40. Fencing of height of 1.2m is to be erected generally in accordance with the Detailed Survey Drawing No 110899001 Rev 6 (Exhibit S) prepared by Hard and Forester dated 22 May 2006 with no gap as shown on plan in north western corner and otherwise in compliance with the SCA.

Shire Planning Services
4 Magnolia Street
KIRRAWEE NSW 2232

26 February 2017

General Manager
Bayside Council
PO Box 21
ROCKDALE NSW 2216

Att: Luis Melim, Manager -

Dear Luis,

Re: Peer Review – DA-05/123/02

I refer to your request for Shire Planning Services to undertake a peer review of the assessment report in relation to the abovementioned Section 96AA application; seeking consent to modify Development Consent No. 2005/123 approved by the Land and Environment Court for the erection of a bridge and associated third party advertising signage. The subject site is known as the pedestrian access bridge (for the Golf Course) erected over Wentworth Avenue at Pagewood (Formerly described as part Lot 1 in DP 1144655).

It is understood that a peer review has been requested for this application as the land owner is Bayside City Council. Therefore, in order to ensure transparency in the assessment process, a peer review of the assessment report and recommendation has been sought.

As requested, I have examined the assessment report in the context of the relevant matters for consideration specified under Section 79C of the Environmental Planning and Assessment Act 1979, including the relevant Statutory Planning Instruments, Development Control Plan/s and policies etc.

Details of the application are as follows:

Application Number:	DA-05/123/02
Date of Receipt:	13 October 2016
Property:	The pedestrian access bridge (for the Golf Course) erected over Wentworth Avenue at Pagewood
Property	The pedestrian access bridge (for the Golf Course) erected over Wentworth Avenue at Pagewood Formerly described as part Lot 1 in DP 1144655
Owner:	Bayside Council
Applicant:	Outdoor Systems Pty Ltd
Proposal:	Section 96AA application to modify Development Consent No. 2005/123 approved by the Land and Environment Court for the erection of a bridge and associated third party advertising signage. This Section 96AA Modification Application is Integrated Development and seeks approval for the removal of 2 x existing approved signage structures (not digital) and replacement with 2 x digital signage structures.
Value:	\$950,000.00
No. of submissions:	Nil

This peer review has been undertaken based on the following documentation provided by Council:

- Plans identified as Drawings STR - Rev A, numbers 0000-0007 for Project No. 2122718A prepared by Parsons Brinckerhoff and dated 28 September 2006, **and amended by STR – Revision 3, Number 0002 and as amended in red and received by Council 13/10/2016. (DA-05/123/02)**
- Plans identified as Drawing Numbers SD03 Issue Band SD04 Issue B for Project No. 2005-13 prepared by ADM Architects and dated 28 September 2006.
- Detailed Survey Drawing No 110899001 Rev 6 prepared by Hard and Forester dated 22 May 2006.
- Heritage Impact Statement prepared by Rappoport Pty Ltd dated September 2004.
- Statement of Environment Effects prepared by Turnbull group Pty Ltd and received by Council on 28th September 2004.
- General Arrangement Plan, Drawing Number S01.01, prepared by Engineering Studio, Revision B, dated 05/09/2016. (DA-05/123/02)
- Steel Framing Plan & Elevations, Drawing Number S01.02, prepared by Engineering Studio, Revision B, dated 05/09/2016. (DA-05/123/02)
- Steelwork Details Sheet, Drawing Number S01.03, prepared by Engineering Studio, Revision B, dated 05/09/2016. (DA-05/123/02)

The Assessment Report recommends approval of the application, subject to conditions.

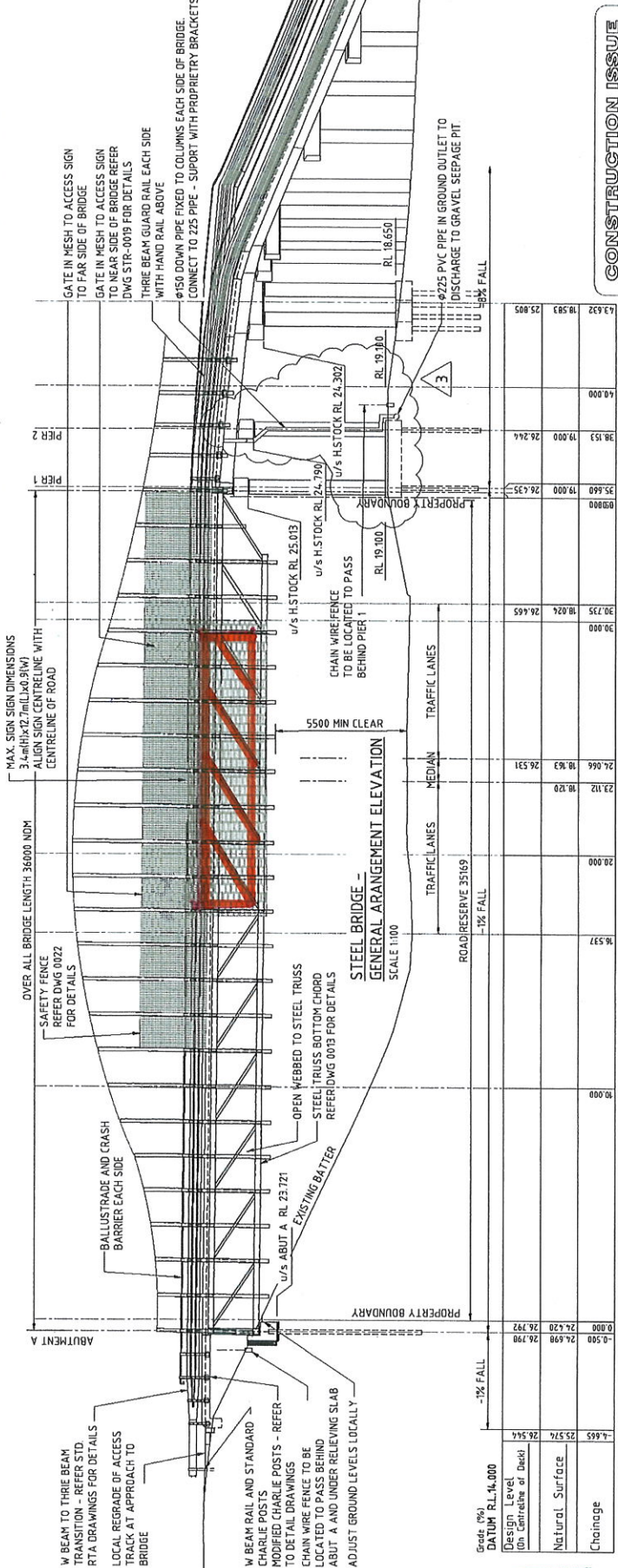
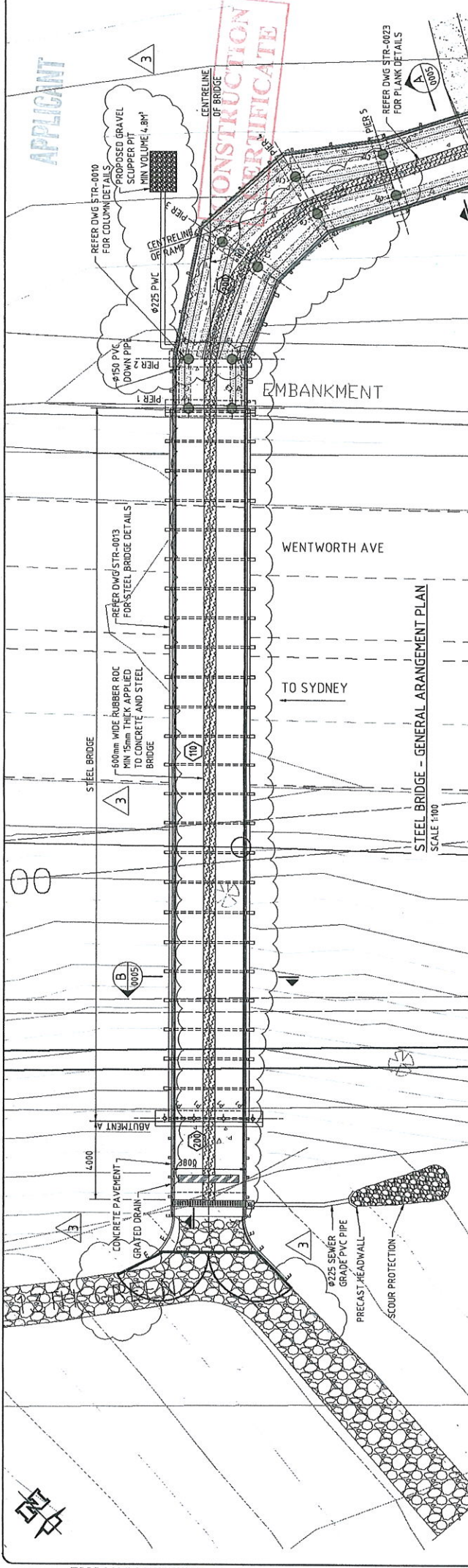
Having reviewed the assessment report I am of the opinion that the assessment of this application is satisfactory with respect of its technical accuracy and thoroughness of the assessment, having regard to the matters for consideration under Section 96AA of the EP&A Act and other relevant planning matters. Further, the recommendation for approval of the Section 96AA application is appropriate, subject to the various conditions as set out in the draft Notice of Determination.

Please don't hesitate to contact me should you require any further information or clarification in relation to the above.

Yours faithfully,

Emma Bell

Shire Planning Services



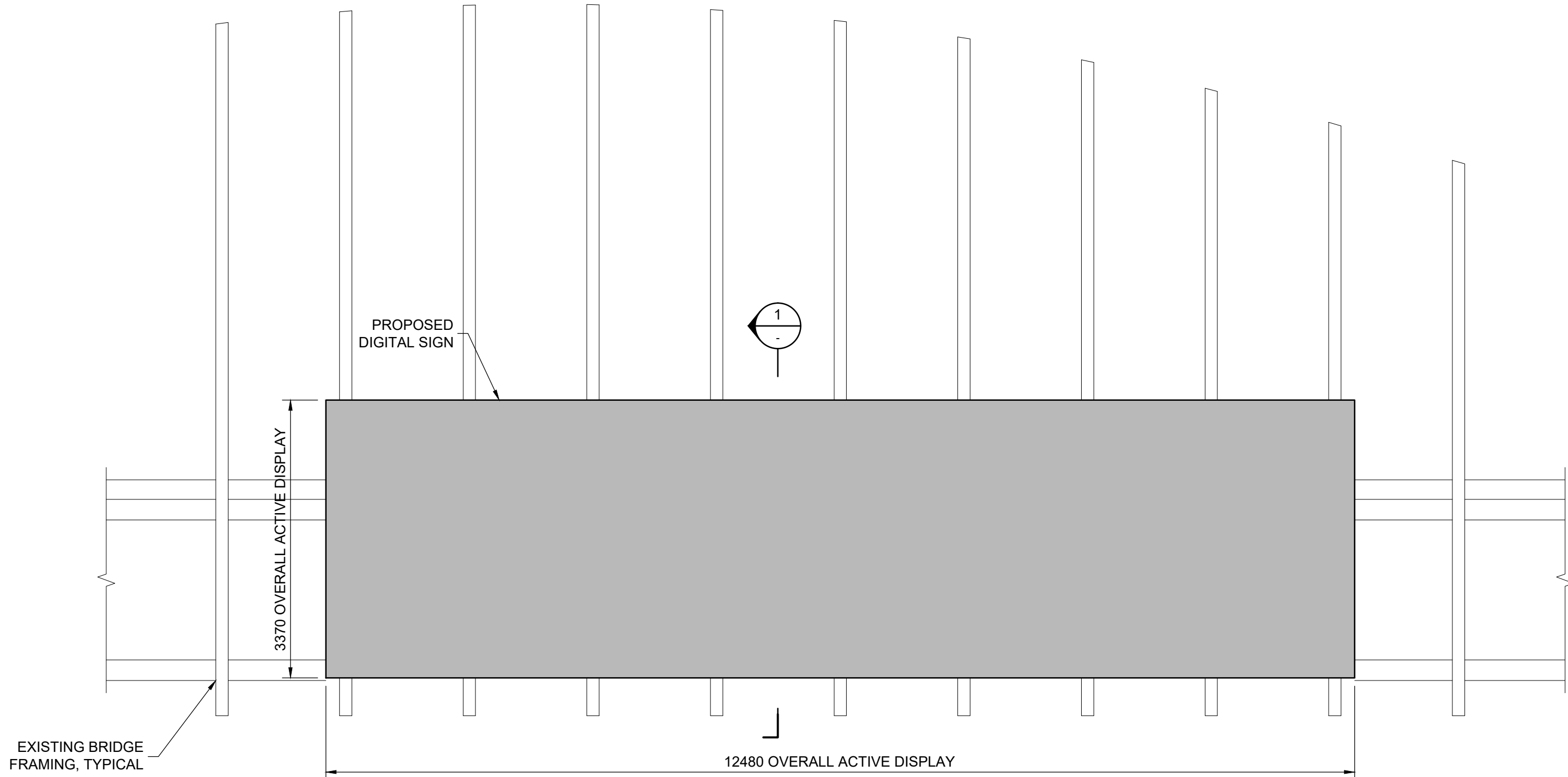
City of Botany Bay
PLANNING AND DEVELOPMENT DIVISION
CONSTRUCTION CERTIFICATE APPROVAL
 Environmental Planning and Assessment Act 1979
 Sections 109C(1), 81A(2), 81A(4) and 81A(5).
 Construction Certificate Drawings Approved in Conjunction with Valid Development Application.
 Construction Certificate No.: **05/123-CC2** has been issued as APPROVED.
 I certify that the work if completed in accordance with these plans and specifications will comply with the requirements of Section 81A(5) of the Environmental Planning and Assessment Act 1979.
 Dated: **22/04/2008** Signature: **[Signature]**

REV	DATE	DESCRIPTION
1	17/02/08	RTA COMMENTS INCLUDED
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PROJECT	BRIDGE OVER WENTWORTH AVE
CLIENT	OUTDOOR SYSTEMS PTY LTD
PROJECT No	2122828A
DISCIPLINE	STR
NUMBER	0002
REV	3

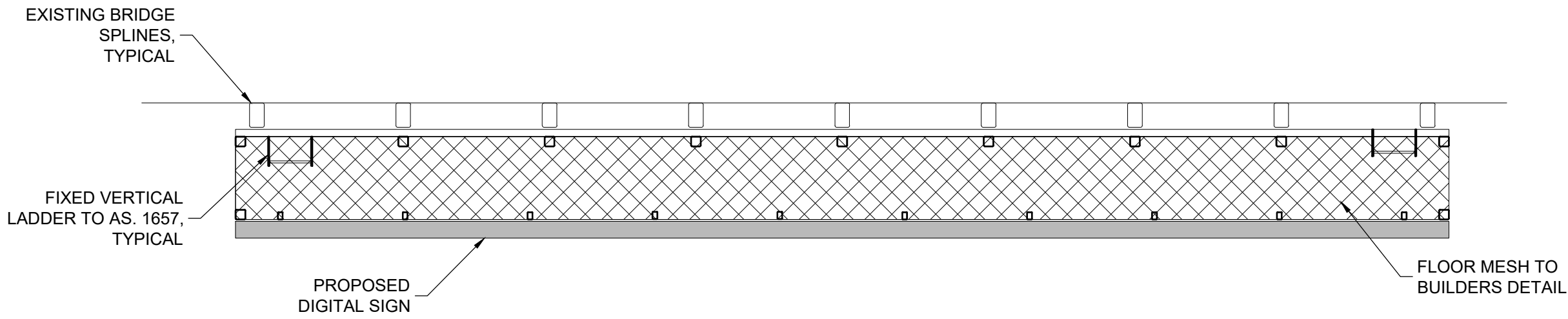
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 DO NOT SCALE THIS DRAWING. USE FOR CONSTRUCTION ONLY.
 APPROVED FOR CONSTRUCTION BY
PB PARSONS BRINCKERHOFF
 Scale 1:100
 Date 18/02/08
 Project 2122828A
 Discipline STR
 Number 0002
 Revision 3

REV	DATE	DESCRIPTION
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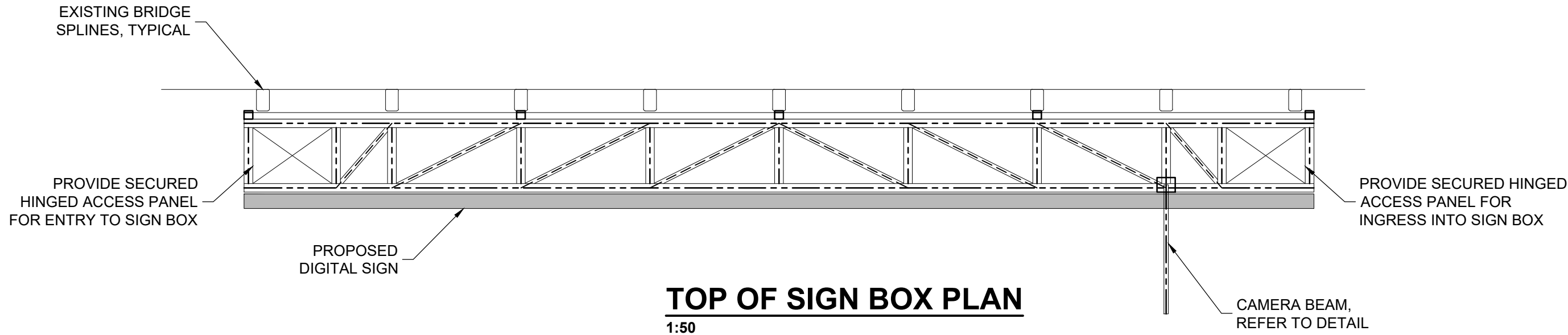


FRONT ELEVATION
1:50

NOTE:
MAXIMUM WEIGHT OF SCREENS TO BE NO GREATER
THAN 60kg/m². COMBINED WEIGHT OF DIGITAL SCREEN
& SIGN BOX TO BE NO GREATER THAN 4.0 TONNES.



SIGN BOX FLOOR PLAN
1:50



TOP OF SIGN BOX PLAN
1:50

GENERAL

- G1** These drawings shall be read in conjunction with all architectural and other consultants drawings and specifications and with such other written instructions and sketches as may be issued during the course of the Contract. Any discrepancies shall be referred to the Superintendent before proceeding with any related works. Construction from these drawings, and their associated consultants drawings is not to commence until approved by the Local Authorities.
- G2** All materials and workmanship shall be in accordance with the relevant and current Standards Australia codes and with the By-Laws and Ordinances of the relevant building authorities except where varied by the project specification.
- G3** All set out dimensions shall be obtained from Architect's and Engineer's details. All discrepancies shall be referred to the Architect and Engineer for decision before proceeding with related work.
- G4** During construction the structure shall be maintained in a stable condition and no part shall be overstressed. Temporary bracing shall be provided by the builder/subcontractor to keep the works and excavations stable at all times.
- G5** Unless noted otherwise levels are in metres and dimensions are in millimetres.
- G6** During Construction a minimum of one (1) floor shall remain fully backpropped at all times. At no time shall concrete be poured unless the floor below is fully backpropped.
- G7** Any substitution of materials shall be approved by the Engineer and included in any tender.
- G8** The structural components detailed on these drawings have been designed in accordance with the relevant Standards Australia codes and Local Government Ordinances for the following loadings. Refer to the Architectural drawings for proposed floor usage. Refer to drawings for live loads and superimposed dead loads.

DESIGN CRITERIA

Site wind classification : REGION A2
Earthquake design category: TERRAIN CATEGORY 2.5
BEDC2

SURFACE TREATMENT NOTES

- ST1** All steelwork as indicated by this drawing is to be primed in Dulux Luxaprime Zinc Phosphate and finished with Dulux Luxol 4 Q.D Gloss Enamel

Preparation

All steel surfaces shall be abrasive blast cleaned in accordance with AS1627 Part 4 to a standard not less than equal to Class 2.5. All dust shall be removed before application of coating and particular attention paid to corners, angles, crevices around bolts and similar difficult areas.

Prime Coat

The coating material shall be a one pack self curing, inorganic zinc phosphate material which when applied to a surface shall be a minimum of 75 microns thick.
Colour light grey - Dulux - Luxaprime Zinc Phosphate

The coating shall be applied to the surfaces not more than 4 hours after surface preparation.

Application finishing and curing shall be by the appropriate methods specified by the manufacturer.

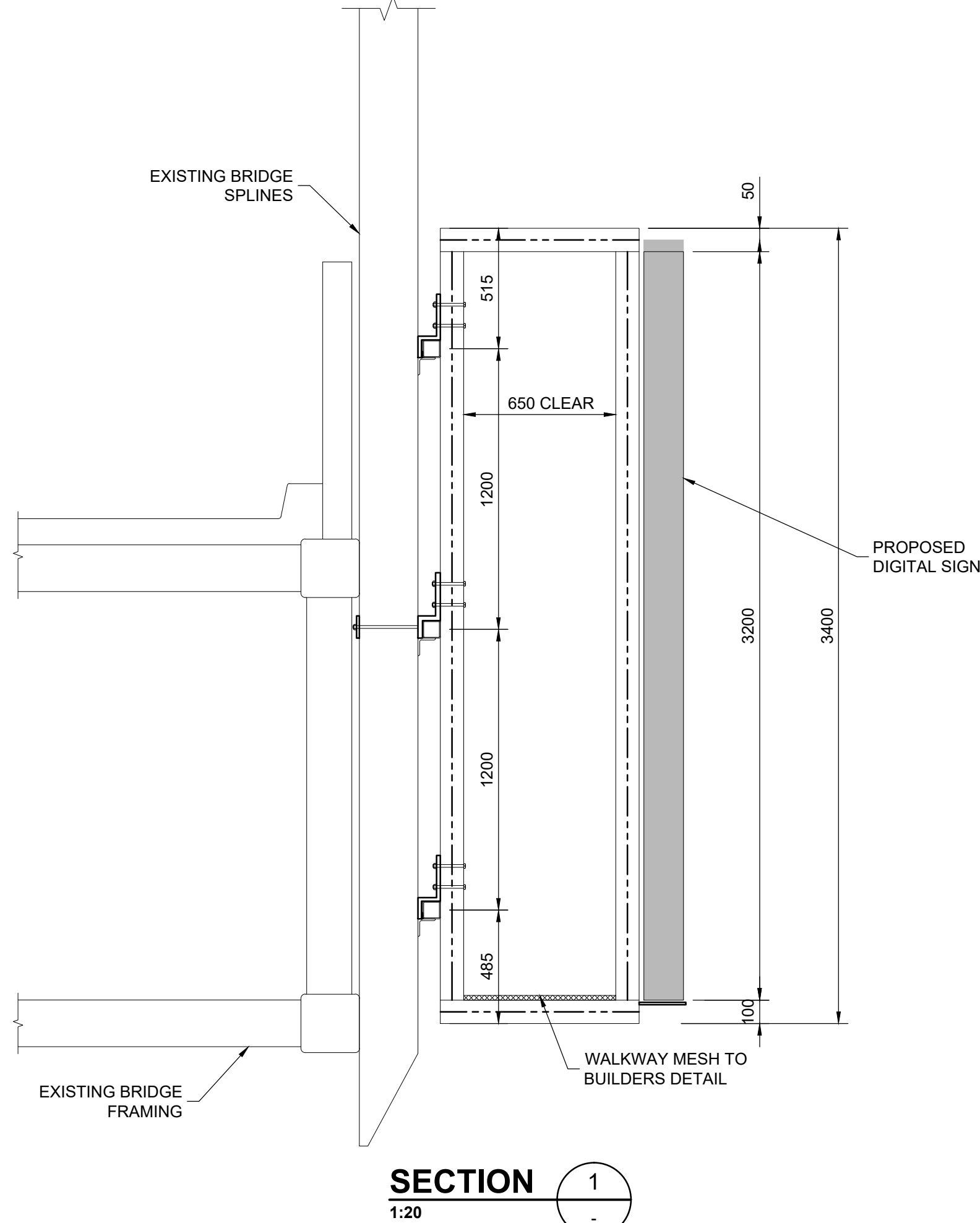
Top Coat

Top coat to be Dulux Luxol 4 Q.D Gloss Enamel - Finished colour - White - 40 Microns

Application finishing and curing shall be by the appropriate methods specified by the manufacturer.

STRUCTURAL STEEL

- SS1** All workmanship and materials shall be in accordance with AS 4100 except where varied by the contract documents.
- SS2** Unless noted otherwise, all steel shall be in accordance with AS 3678 Grade 250 or AS 3679 Grade 300, or AS 1163 Grade 350 as appropriate.
- SS3** Three (3) copies or 1 transparency of workshop drawings shall be submitted to the Engineer for review at least 7 days prior to commencement of fabrication. Fabrication shall not commence without Engineers approval of workshop drawings. All dimensions and setouts to be obtained from the Architects drawings where not indicated on the Structural drawings.
- SS4** The bolting procedure is designated as follows: 4.6/5 Commercial bolts of grade 4.6 to AS 1111 - snug tightened 8.8/5 High strength bolts of grade 8.8 to AS 1252 - snug tightened 8.8/5 High strength bolts of grade 8.8 to AS 1252 fully tensioned to AS 4100 as a bearing type joint 8.8/5 High strength bolts of grade 8.8 to AS 1252 fully tensioned to AS 4100 as a friction type joint with facing surfaces left uncoated.
- SS5** Unless noted otherwise all fillet welds shall be 6mm continuous category SP using E41XX electrodes. All butt welds shall be complete penetration butt welds SP to AS 1554.1. All gusset plates shall be 12 mm thick, all bolts shall be M20 8.8/5 in 22mm diameter holes, minimum 2 bolts to each connection. All washers and bolts shall be galvanised.
- SS6** Fabrication shall comply with AS 4100 - Section 14, Erection shall comply with AS 4100 - Section 15, /TB and /TF bolts to be installed in accordance with AS 4100 - Section 15, using either the part-turn method or the direct-tension indicator method.
- SS7** Where connection forces (in Kilonewtons) are shown on the drawings, connections shall be provided to transmit these forces. Connections shall provide for a minimum force of 25 kN.
- SS8** Steelwork intending to be concrete encased shall be unpainted. Encasing concrete to be grade N25 providing cover adequate to suit fire rating or exposure conditions. Concrete encasement shall be centrally reinforced with 5mm wire to AS 1303 or 6mm structural grade bars to AS 1302 at 150mm pitch.
- SS9** All steelwork below ground shall be encased by 75mm of concrete, steel wrapped with FGW41 placed 25mm clear of steel. Provide 50mm minimum encasing.
- SS10** Steelwork not to be concrete encased shall be given one shop coat of an approved primer unless noted otherwise. Faces of friction grip connections shall not be painted. Refer to architectural specifications for coatings schedule.
- SS11** The builder shall provide all cleats and drill all holes necessary for fixing steel to steel and timber and other elements to steel whether or not detailed in the drawings.
- SS12** Unless noted otherwise camber shall be provided to all roof beams, trusses, portals etc. At 5mm per 2000mm of span. No member shall be erected with negative camber.
- SS13** Provide seal plates to the plates to the ends of all hollow sections, with "breather" holes if members to be hot dip galvanised.
- SS14** All steelwork shall be securely temporarily braced by the erector as necessary to stabilise the structure during erection. Design of all temporary bracing is the responsibility of the erector. Specific design details are to be forwarded onto the project engineer upon request.
- SS15** All bolts shall be of such length that at least one full thread is exposed beyond the nut after the nut has been tightened.
- SS16** Minimum one washer shall be used under the nut in all situations. If tightening is carried out at the head, and additional washer is to be used under the head. For slotted holes use hardened washer under the nut and bolt head.
- SS17** Unless noted otherwise all material to be: Grade 250-Hot Rolled Plates, Flats, Angles (100 x 100 or 125 x 75 and smaller) Grade 300-All WB's and WC's Grade 300 Plus-All UB's, UC's, PFC's and larger angles. Grade 350-All RHS's, and CHS's
- SS18** All galvanising of structural steelwork to AS 1650. The continuous average zinc coating mass to be 600 g/m2 (550 g/m2 minimum)
- SS19** The fabrication and erection of the structural steel work shall be supervised by a qualified engineer, experienced in such supervision, to ensure that all requirements of the design are met.
- SS20** Surface finishes for all structural steelwork to be in accordance with the Architectural specification.



SECTION
1:20

NOTE: DO NOT SCALE OFF DRAWINGS. REFER TO
ARCHITECTURAL PLANS. VERIFY DIMENSIONS ON SITE

REV	DATE	DESCRIPTION	BY
b	05.09.16	RE-ISSUED FOR APPROVAL	F.I.
A	12.08.16	ISSUED FOR APPROVAL	F.I.

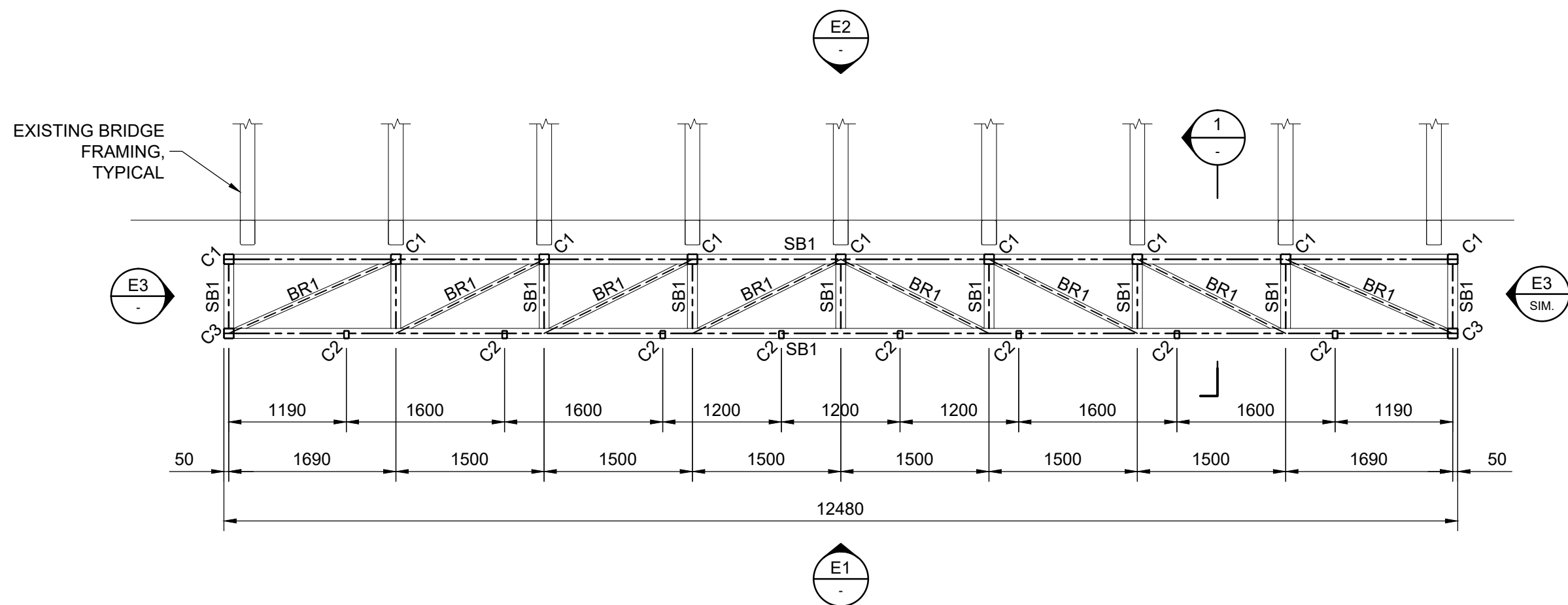
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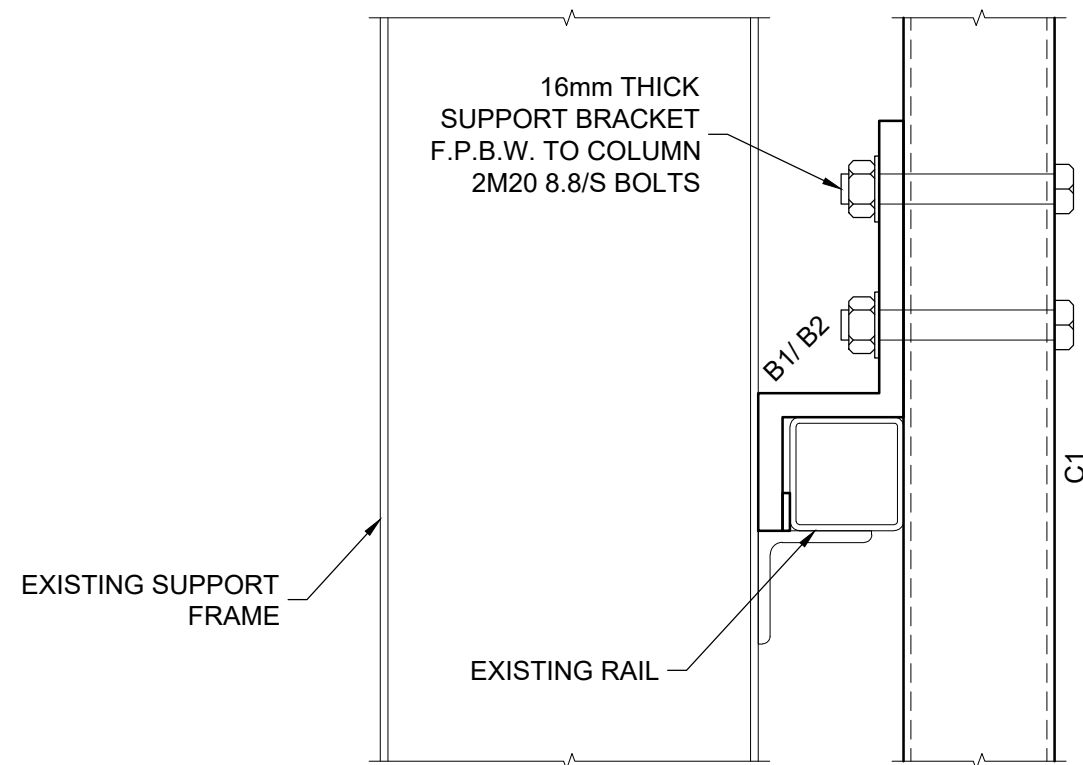


Phone: (02) 8020 2960
Email: info@engineeringstudio.com.au
Web: www.engineeringstudio.com.au
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PO Box 7191
BAULKHAM HILLS NSW 2153

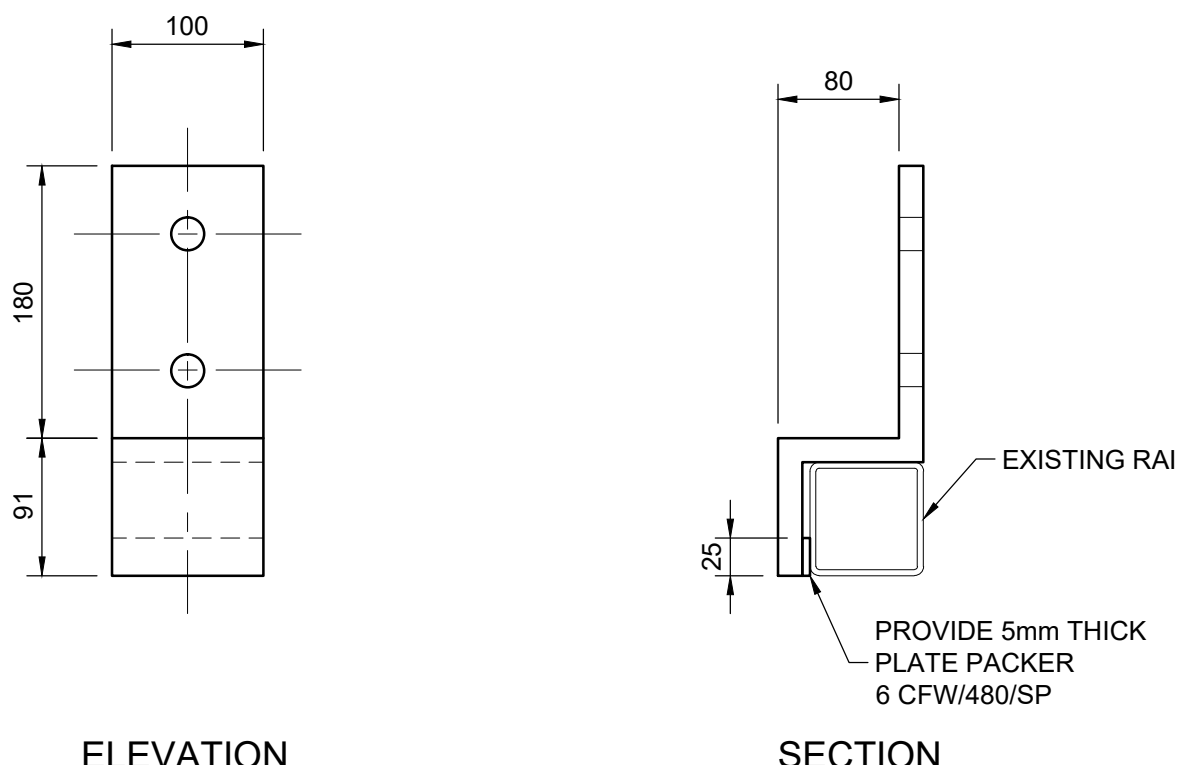
PROPOSED SIGNAGE
AT EASTLAKE GOLF CLUB -
BRIDGE OVER WENTWORTH AVENUE
FOR OUTDOOR SYSTEMS

GENERAL ARRANGEMENT PLAN		
JOB NUMBER:	DWG NUMBER:	ORIGINAL SIZE:
16518	S01.01	A1
DESIGNED BY:	DATE:	
T.I.	AUGUST 2016	
DRAWN BY:	SCALE:	
F.I.	1:50, 1:20 U.N.O.	

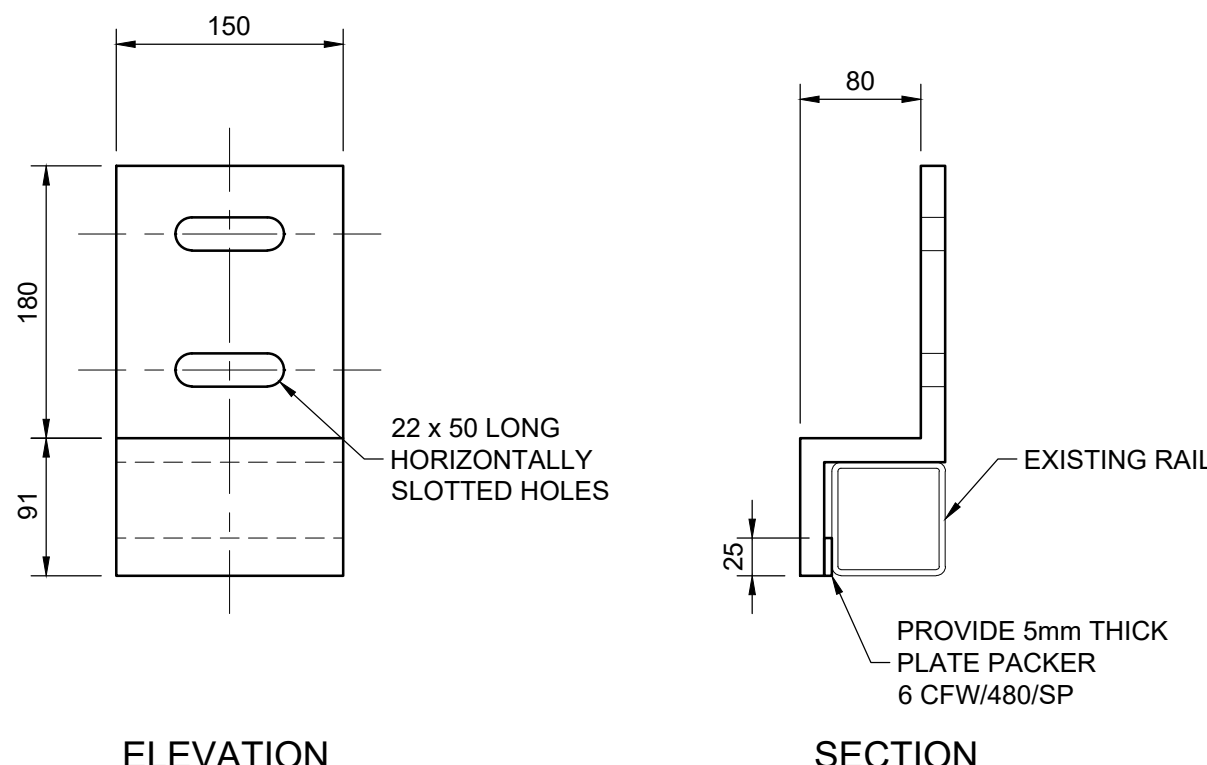




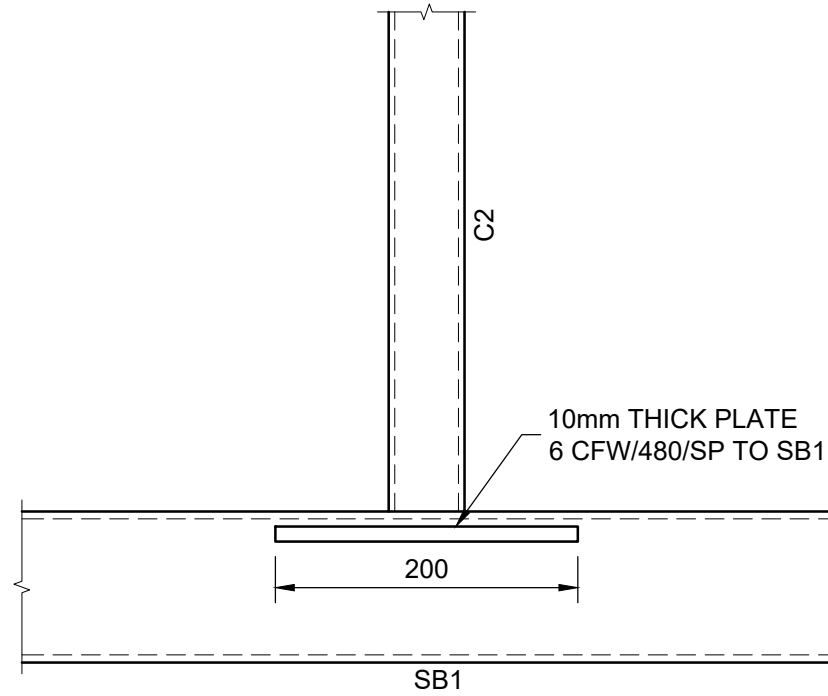
DETAIL A
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S01.02



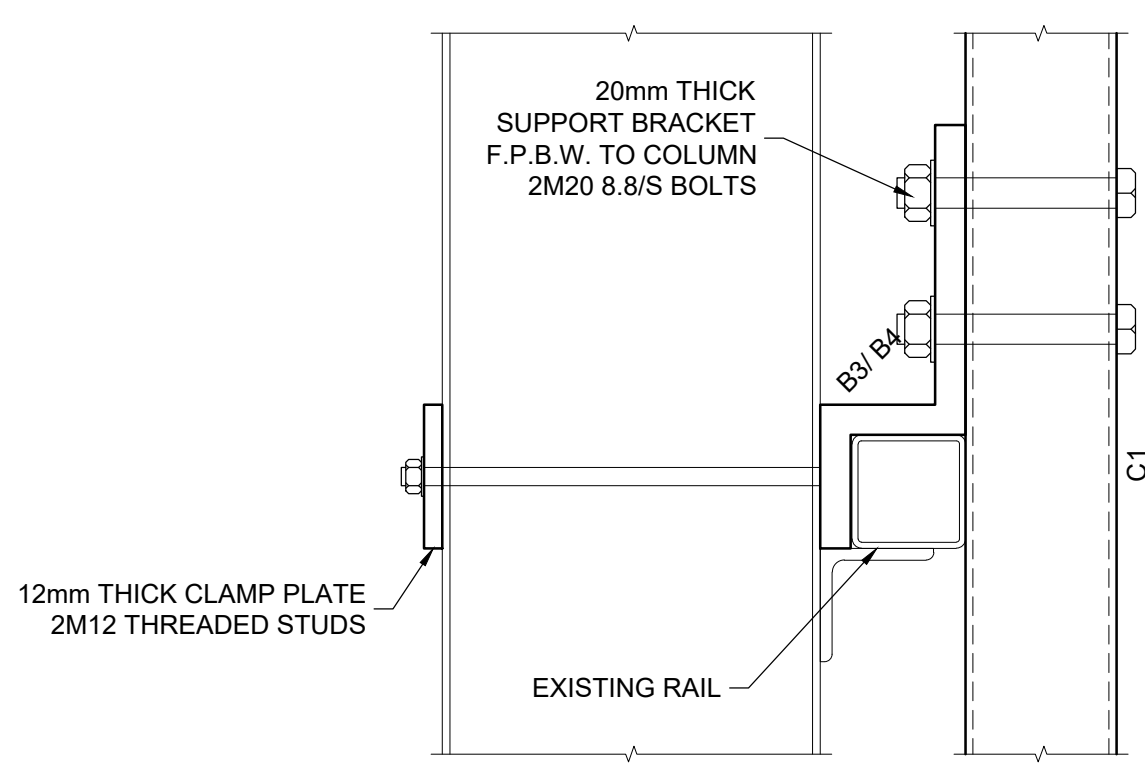
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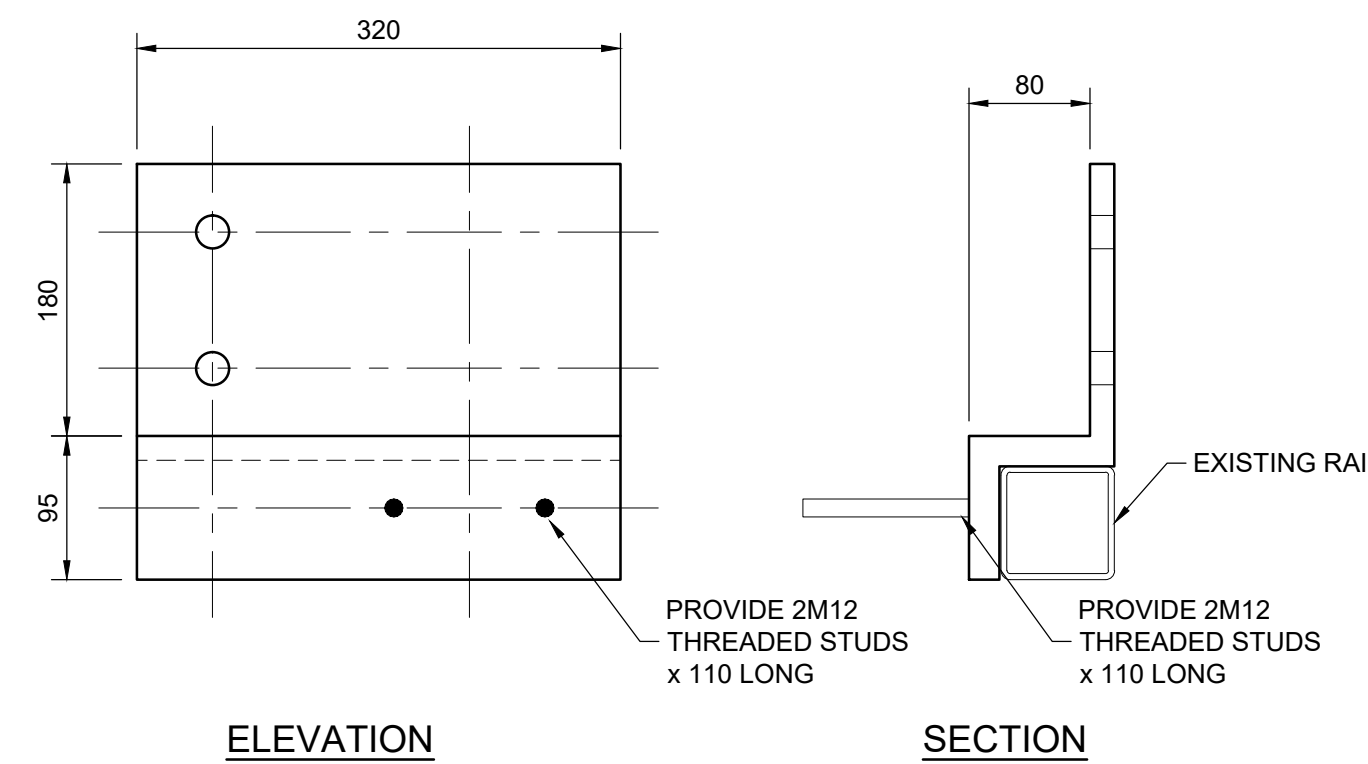
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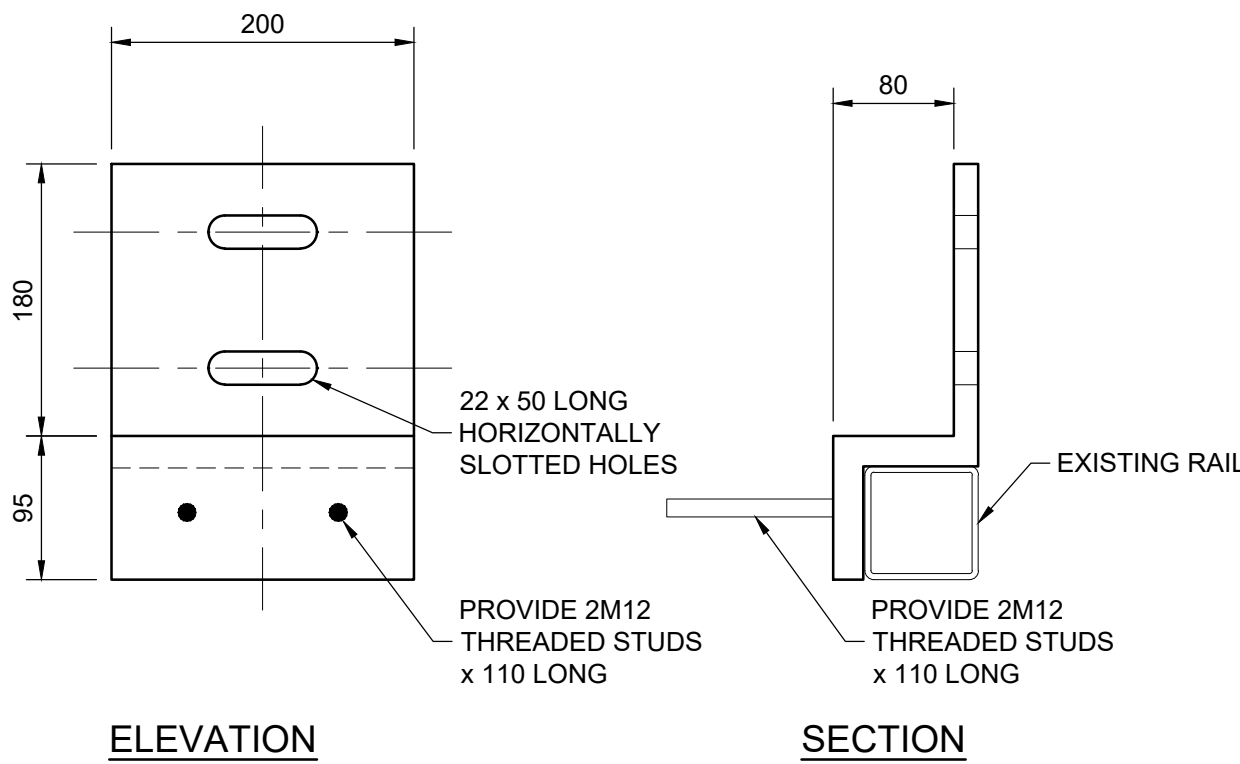
SECTION C1
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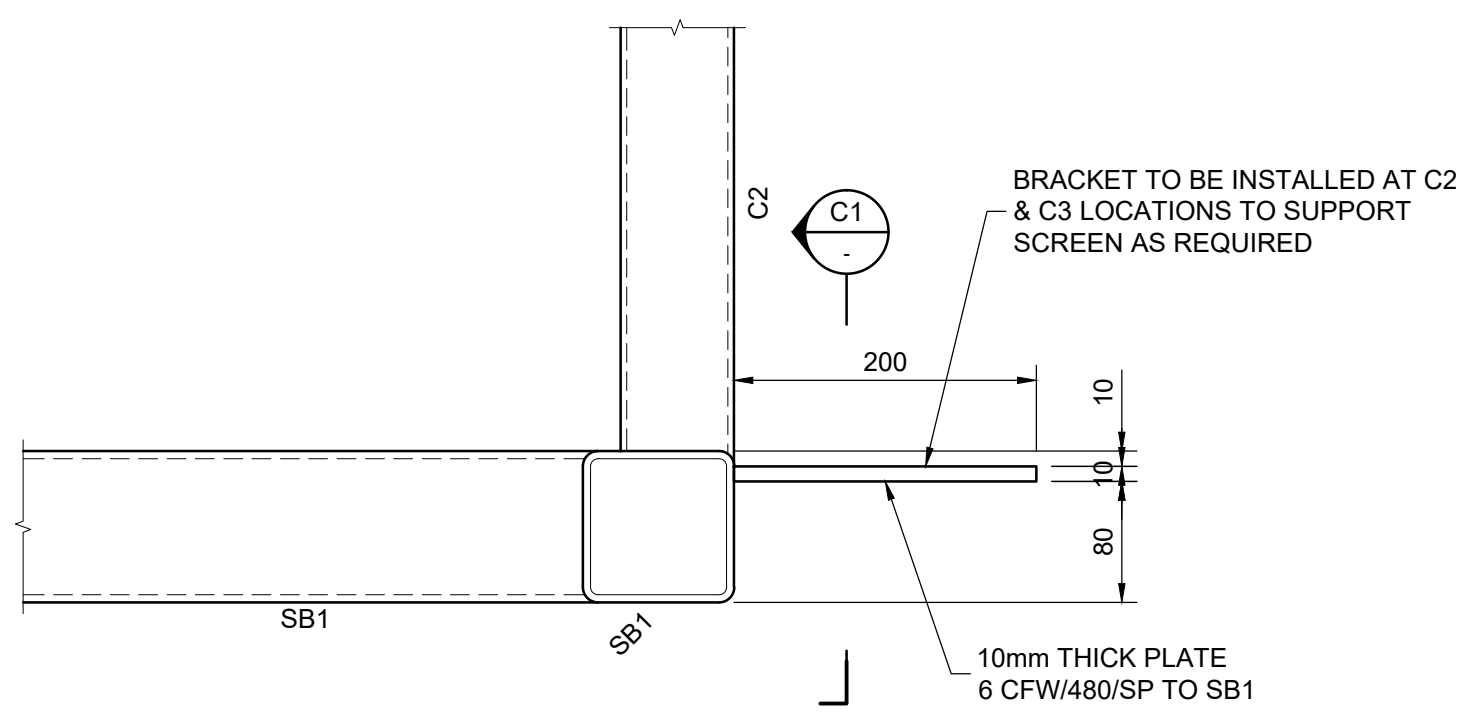
DETAIL B
1:5
S01.02



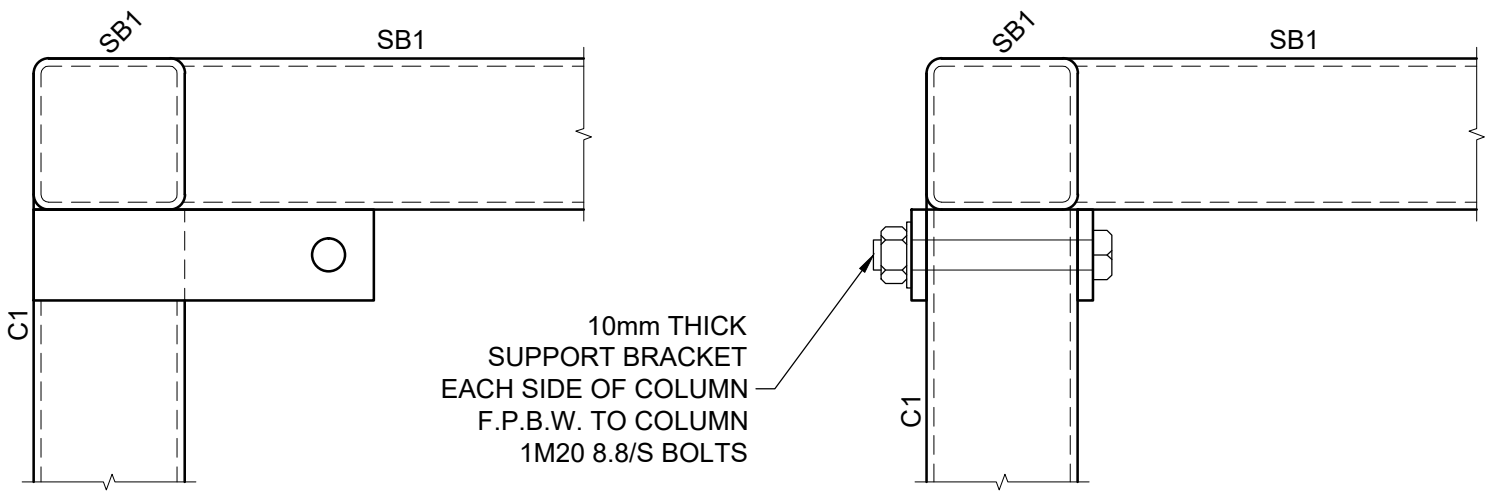
SUPPORT BRACKET 'B3' DETAIL
1:5



SUPPORT BRACKET 'B4' DETAIL
1:5

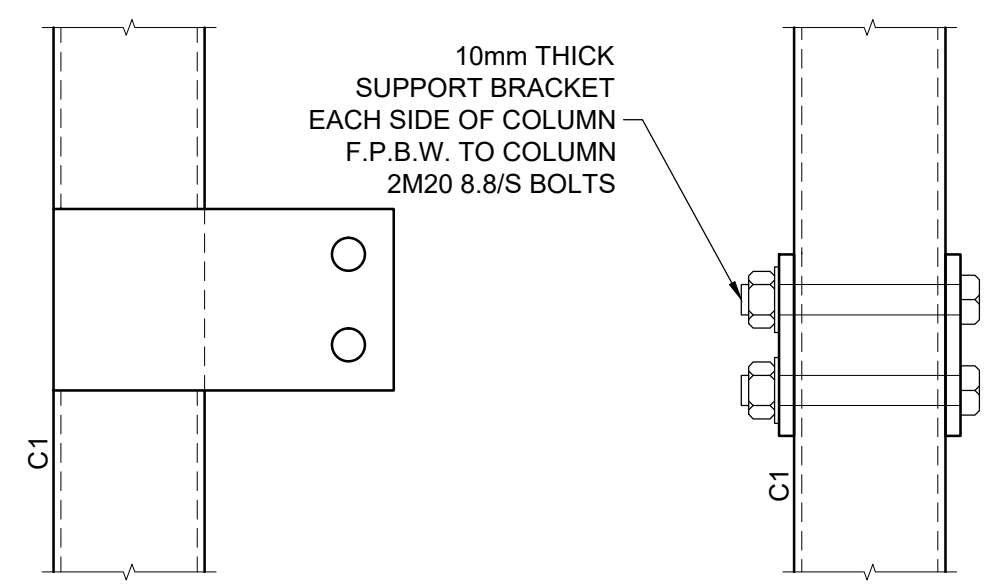


DETAIL C
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S01.02



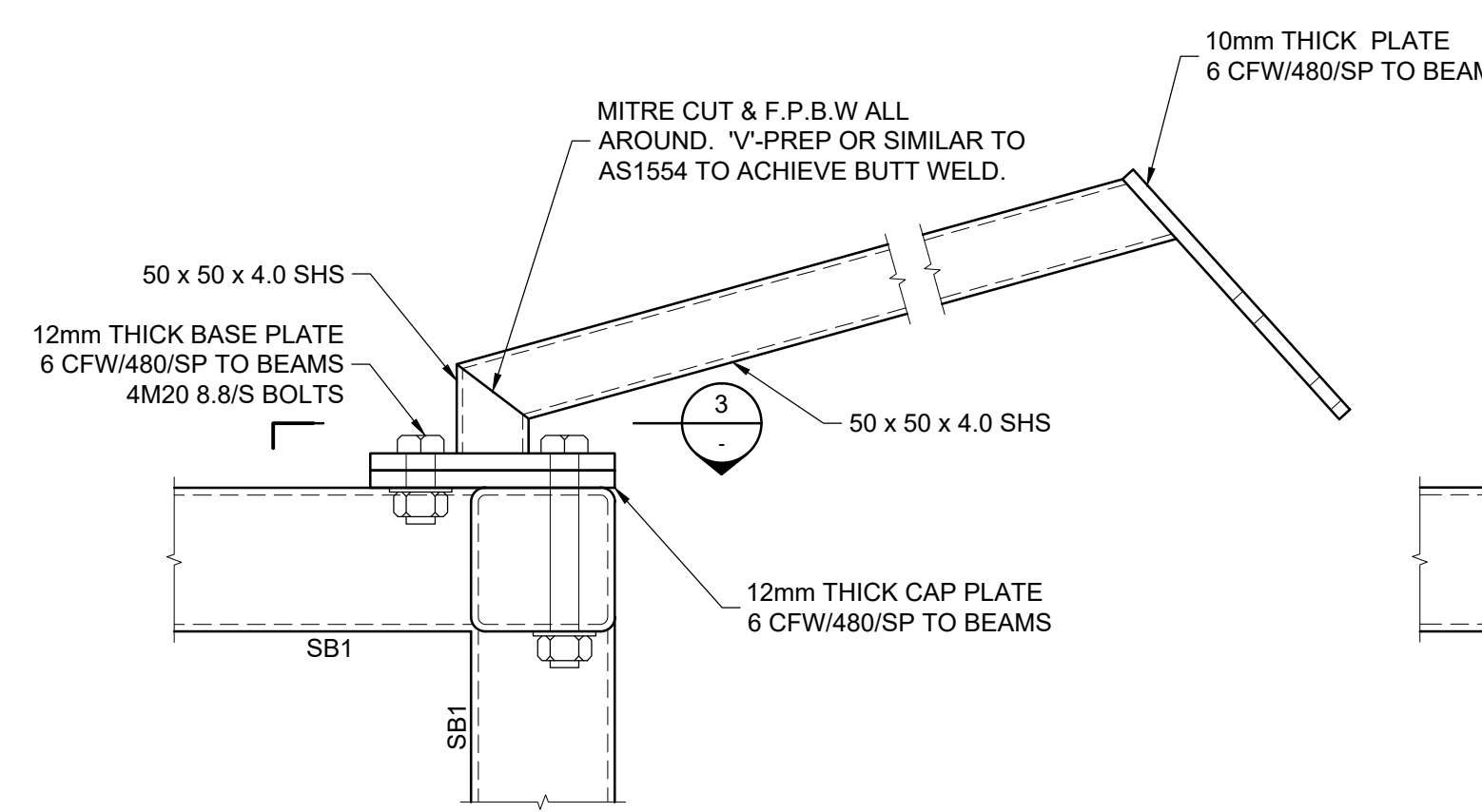
FRONT ELEVATION **SIDE ELEVATION**

SUPPORT BRACKET 'B5' DETAIL
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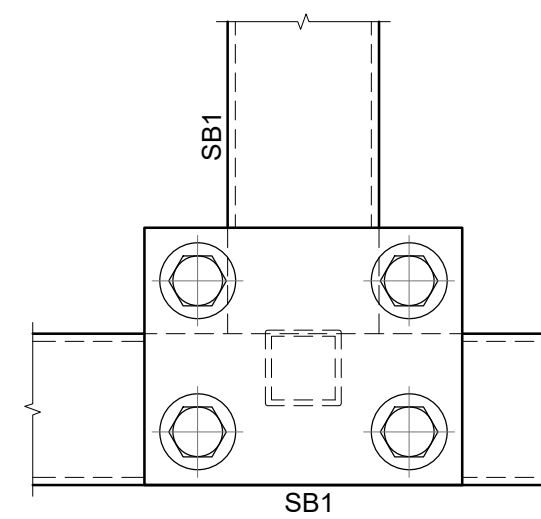


FRONT ELEVATION **SIDE ELEVATION**

SUPPORT BRACKET 'B6' DETAIL
1:5



CAMERA BEAM DETAILS
1:5



SECTION 3
1:5

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REV	DATE	DESCRIPTION	BY
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A	12.08.16	ISSUED FOR APPROVAL	F.I.

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EngineeringStudio
Civil & Structural
Phone: (02) 8020 2960
Email: info@engineeringstudio.com.au
Web: www.engineeringstudio.com.au
Postal Address
PO Box 7191
BAULKHAM HILLS NSW 2153

PROPOSED SIGNAGE
AT EASTLAKE GOLF CLUB -
BRIDGE OVER WENTWORTH AVENUE
FOR OUTDOOR SYSTEMS

STEELWORK DETAILS SHEET		
JOB NUMBER:	DWG NUMBER:	ORIGINAL SIZE:
16518	S01.03	A1
DESIGNED BY:	DATE:	
T.I.	AUGUST 2016	
DRAWN BY:	SCALE:	
F.I.	1:5 U.N.O.	

Council Meeting

8/03/2017

Item No	9.8
Property	52-54 Pemberton Street Botany, Lots 1-5 DP 979152; Lot 51 DP 15704; Lot 100 DP 867427; Lot 1 DP 701262; Lot 101 DP 867427
Proposal	Section 96(1A) modification to DA-13/208, which was approved for a mixed used development and public park. The modification seeks to incorporate a finalised landscape design into the development consent, and also seeks to delete Condition 55, such that no further landscaped design submission is required.
Cost of Development	\$181,294,482 (original proposal)
Report by	Brendon Clendenning – Acting Team Leader Development Assessment
Application No	DA-13/208/06

Council Resolution

Minute 2017/032

Resolved by the Administrator:

A. That Council resolve pursuant to Section 96(1A) of the Environmental Planning and Assessment Act, 1979, to modify Development Consent No. 13/208, for the mixed use development, at 52-54 Pemberton Street Botany, as follows:

1. Modify Condition 1 to refer to the new landscape plan.
2. Reinstatement a modified Condition 54, which was previously deleted, to indicate further amendments to the new landscape plan that are required as follows:

54 The approved landscape plan, prepared by Tract, dated 8 November 2016 for the public parks (shown on the approved plans prepared by Dunlop Thorpe & Co as Pt Lot 29) shall be the subject of detailed landscape construction documentation – plans, sections, elevations, construction details and specifications, and shall be submitted to and approved by Council's Landscape Architect. The plans shall also be amended to include the following changes:

- a) Where there is no conflict with proposed seating walls, drainage infrastructure, and the like, plantings located adjacent to the boundaries shared with No. 38 Kurnell Street and No.69 Wilson Street are to be located approximately 300mm further to the south.*
- b) The Angophora Costata is to be located approximately 1m further to the south.*

Once approved by Council, landscaping shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the approved

landscape documentation, the conditions of consent and Council's Landscape DCP at all times.

3. Modify Condition 55 to indicate that the condition only applies to the remaining landscape areas (including the Pocket Park extension known as Lot 30), and to delete requirements which are specific to the public parks.
 4. Modify Condition 158 to make reference to this modification.
- B. Incorporate the modification in DA-13/208/07 (if approved), in to a single determination notice.
- C. That the objectors be advised of Council's decision.
-

Officer Recommendation

- A. That Council resolve pursuant to Section 96(1A) of the Environmental Planning and Assessment Act, 1979, to modify Development Consent No. 13/208, for the mixed use development, at 52-54 Pemberton Street Botany, as follows:
1. Modify Condition 1 to refer to the new landscape plan.
 2. Modify the previously deleted Condition 54 to indicate that further amendments to the new landscape plan are required.
 3. Modify Condition 55 to indicate that the condition only applies to the remaining landscape areas (including the Pocket Park extension known as Lot 30), and to delete requirements which are specific to the public parks.
 4. Modify Condition 158 to make reference to this modification.
- B. Incorporate the modification in DA-13/208/07 (if approved), in to a single determination notice.
- C. That the objectors be advised of Council's decision.
-

Attachments

Planning Assessment Report

Modification of Consent – Landscape Plan

Strata Plans

Location Plan

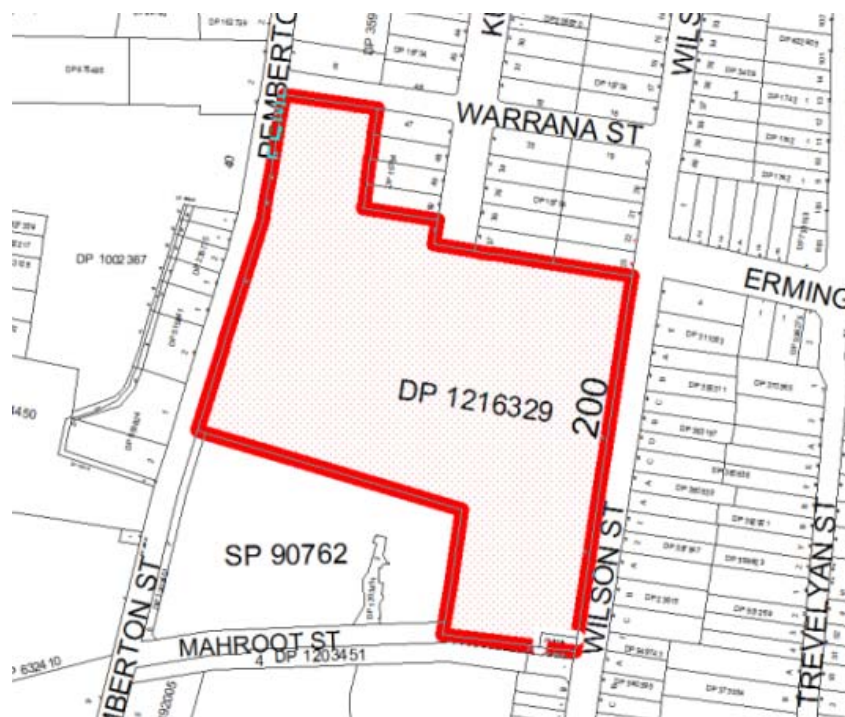


Figure 1: Locality Plan

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-13(208)/6
Date of Receipt:	11 November 2016
Property:	52-54 Pemberton Street Botany, Lots 1-5 DP 979152; Lot 51 DP 157 DP 867427; Lot 1 DP 701262; Lot 101 DP 867427
Owner:	Botany No 1 Pty Ltd
Applicant:	Frasers Property Australia
Proposal:	Section 96(1A) modification to DA-13/208, which was approved for a development and public park. The modification seeks to incorporate a landscape design into the development consent, and also seeks to delete Condition 55, such that no further landscaped design submission is required.
Value:	\$181,294,482 (original proposal)
No. of submissions:	Two (2) in opposition
Author:	Brendon Clendenning – Acting Team Leader Development Assessment
Date of Report:	11 February 2017

Key Issues

Development Application No.13/208 was granted consent by the Joint Regional Planning Panel (JRPP) on 15 July 2015. The approved development was for construction of four (4) buildings comprising 433 apartments and buildings ranging in height between three (3) to eight (8) storeys, basement car park and 3,000 sqm of publicly accessible open space.

The Council recommended refusal of the development application, for reasons relating to the non-compliance with the building height standard under the Botany Bay LEP 2013 (BBLEP 2013) and non-compliance with the apartment sizes under the Botany Bay DCP 2013 (BBDCP 2013) and the Residential Flat Design Code (RFDC).

The JRPP requested that Council provide draft conditions of consent prior to the panel meeting on 15 July 2015, and at its public meeting, the JRPP resolved to grant consent to the development, subject to conditions.

The current modification application is the fifth modification lodged in relation to this development, and is under assessment concurrently with the sixth modification.

Condition 55 of the development consent requires that an amended landscape plan to be submitted to Council prior to the issue of a Construction Certificate. Since the determination of the development application, several revisions have been submitted to Council. The subject

modification application seeks to delete Condition 55, and incorporate the latest revision of the landscape plan into the development consent.

In accordance with Part 2 - Notification & Advertising of the Botany Bay Development Control Plan 2013, the Section 96(1A) Application was notified for a period of 14 days from 7 December 2016 to 21 December 2017. Two submissions were received, and it is recommended that Condition 55 be modified in response to these submissions.

This Section 96(1A) Modification Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and it is recommended that updated conditions be imposed requiring further amendments.

Recommendation

- A. That Council resolve pursuant to Section 96(1A) of the Environmental Planning and Assessment Act, 1979, to modify Development Consent No. 13/208, for the mixed use development, at 52-54 Pemberton Street Botany, as follows:
 1. Modify Condition 1 to refer to the new landscape plan.
 2. Modify the previously deleted Condition 54 to indicate that further amendments to the new landscape plan are required.
 3. Modify Condition 55 to indicate that the condition only applies to the remaining landscape areas (including the Pocket Park extension known as Lot 30), and to delete requirements which are specific to the public parks.
 4. Modify Condition 158 to make reference to this modification.
- B. Incorporate the modifications in DA-13/208/07 (if approved), in to a single determination notice.
- C. That the objectors be advised of Council's decision.

Background

Description of Approved Development – DA-13/208

Development Application No.13/208 was granted consent by the JRPP on 15 July 2015 for the following:

- Excavation and site preparation works and construction of the site for residential purposes;
- Four (4) buildings containing a maximum Gross Floor Area (GFA) of 42,804sqm and Floor Space Ratio (FSR) of 0.96:1 in the B4 zone and 1.55:1 in the R3 zone, comprising a total of 433 apartments;
- Building heights between three (3) storeys to eight (8) storeys;
- Basement and ground level parking;

- 3,000sqm of publicly accessible open space;
- Pedestrian and cycle through-site links; and new vehicular access from Pemberton Street;
- The proposal also includes the dedication of land and stratum and Torrens Title subdivision.

The Council recommended refusal of the development application, for reasons relating to the non-compliance with the building height standard under the Botany Bay LEP 2013 (BBLEP 2013) and non-compliance with the apartment sizes under the Botany Bay DCP 2013 (BBDCP 2013) and the Residential Flat Design Code (RFDC).

The JRPP requested that Council provide draft conditions of consent prior to the panel meeting on 15 July 2015, and at its public meeting, the JRPP resolved to grant consent to the development, subject to conditions.

An earlier application, DA-14/239, for the demolition of all existing structures, minor excavation works and removal of trees, was also approved, and has since been modified to enable removal of further trees on Pemberton Street.

Previous Modifications

The first modification, DA-13/208/2 was determined on 27 April 2015. The modification made a number of changes to the consent conditions, including the addition of Condition 1B, which provided a table outlining the 'prior to CC' conditions that may be addressed for each separate CC.

The third modification application DA-13/208/4 (lodged after the lodgement of the second modification application, but determined before it) was lodged on 13 May 2016 and approved on 18 May 2016. This application sought changes to enable Section 94 contributions to be held by Council whilst the VPA is finalised, as well as other changes to conditions.

The second modification application, DA-13/208/3 was lodged on 18 April 2016 and included:

- Modifications to façades and the internal building configuration, resulting from the design development process;
- Modification to the south eastern boundary of the site;
- Dedication of land for public open space to the south of the site;
- Construction of an additional terrace on Wilson Street; and
- Vehicular access for the driveways on to New Street 1, including an alternative interim vehicular access for Building E until New Street 1 has been dedicated.

This modification was approved by the Joint Regional Planning Panel on 20 July 2016. The Panel's decision included the deletion of conditions recommended by Council to restrict access to Mahroot Street.

The fourth modification, DA-13/208/5, was approved on 6 September 2016 and included minor changes to correct errors within the consent, including reference to the correct subdivision plan.

As well as the subject application, a further application, DA-13/208/7 was lodged on 1 December 2016. This modification seeks for the relocation of the Wilson Street temporary access driveway, such that it would be provided over the pocket park extension area. The

temporary access driveway is only required in the event that Mahroot Street is not dedicated to Council in a timely manner.

Description of the Proposed S96 Modifications

The subject application was approved subject to conditions, which included, among other things, a requirement to enter in to a Voluntary Planning Agreement, in accordance with the offer made by the developer, which required dedication of a public park to Council. Condition 55 of the development consent also required that an amended landscape plan be provided to Council, as the plans that were submitted were not yet satisfactory to Council. Condition 55, as previously modified, is reproduced below:

55. The landscape areas shown on the conceptual landscape plans by Tract and dated 1 April 2015 shall be the subject of detailed landscape construction documentation – plans, sections, elevations, construction details and specifications, to be submitted to and approved by the City of Botany Bay Council's Landscape Architect. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with BBDCP2013. The detailed, construction level landscape plan shall include, but not be limited to:
- a) A site plan showing building envelopes, paved areas and areas to be landscaped.
 - b) A detailed planting plan at 1:100 scale showing all plant locations, groupings and centres. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers/lawn in all landscaped areas.
 - c) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking.
 - d) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls.
 - e) Areas of paving, schedule of materials, edge treatments and sectional construction details.
 - f) All external and internal fencing, privacy screening and pergolas – elevations and materials.
 - g) Details of other landscape elements such as furniture, amenity lighting, artwork and water features. Provide sectional construction details and elevations.
 - h) Planter box on slab sectional details. Planter box depths to be in accordance with BBDCP2013 and SEPP65.
 - i) In communal open spaces, soft landscaping is to be maximised and accessways/ dissecting pathways minimised. Provide lawn as well as planted areas, trees for shade and seating.
 - j) A mixture of tree heights and forms shall be used extensively throughout the site – in private courtyards, communal areas and in setbacks using small, medium and large canopy trees ranging in height from 3 to 15 metres. Trees must be of an appropriate scale to complement and ameliorate the development and to pedestrianise landscaped open spaces. Deep soil zones must include larger canopy trees. Setbacks are to include appropriate sized trees to soften the development and integrate it with the streetscape. Trees to be predominantly native, evergreen species using open canopy evergreens or some selected deciduous for solar penetration.
 - k) The public park shall incorporate playground equipment area of adequate

dimensions and fitout and suited to the projected residential and local community, a *casual* fitness area and BBQ/picnic facilities. These should all be of adequate dimension to promote useability and functionality and well located for access and surveillance.

- l) Playgrounds shall be designed in accordance with Australian Standards and all design and structural certifications provided to Council.
- m) Incorporate shared access paths (north-south or east-west) (to accommodate bicycles).
- n) Show the location of underground stormwater and rainwater tanks and the like and impact on landscape outcome.
- o) Provide landscape furniture and recreational facilities appropriate to the development such as BBQ areas, shelters, seating, playground, water features and the like.
- ~~p) Street setbacks are to be primarily green spaces for the required 3 metre landscaped setback width. Patios shall be provided in private landscape areas behind townhouses, not in the street frontage.~~
- q) Planting is to be provided to all ground floor townhouse rear private open spaces.
- r) Clearly demonstrate tree survival/growth within the sunken tree pits regarding watering, contaminated soils, potential impacts on tree growth, form and health. Will the planting result in mostly only canopy visible at the podium communal open space level and is this optimal regarding aesthetics, visual surveillance etc.
- s) *Amended landscape are to be submitted to Council including Large/wide format, deep planters are required on to the podium to support trees, not linear type planters.*

Once approved by Council, landscaping shall be installed in accordance with the approved landscape as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times.

(Condition Amended DA-13/208/02)

Since the determination of the original application, various revisions of the landscape plans have been submitted to Council. The latest amendment has mostly addressed the requirements of Condition 55. The subject application seeks to delete the Condition 55 from the development consent, and to make reference within the development consent to the latest landscape plan.

Site Description

The legal description of the allotments to which this development application relates (the site) is described below. The site is zoned part B4 – Mixed Use (8,058.5 sqm²), part R2 – Low Density Residential (one lot of 456 sqm) and part R3 (22,565 sqm) – Medium Density Residential.

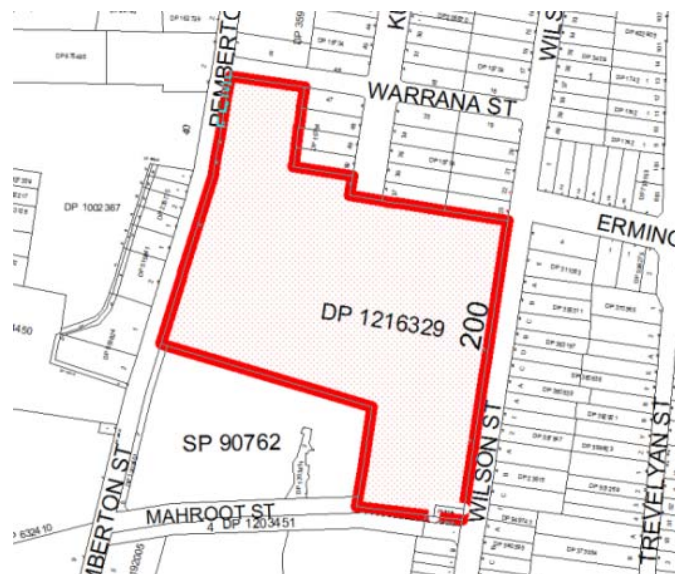


Figure 1 Locality Plan

The combined area of the development site is 31,202.1 sqm and is defined by Pemberton Street to the west (190 metres), Wilson Street to the east (195 metres), the Mahroot Street (68 metres) and the 42-44 Pemberton Street development to the south. To the north of the site is a short section of Warrana Street (40 metres) including a series of residential properties in Kurnell Street.

Referrals

Internal Referrals

The modification application was referred to Council's Landscape Architect for comment, who had been liaising with the applicant on an ongoing basis in relation to the landscape design for the site. The Landscape Architect provided the following comments:

"Condition 55: Deletion is not necessary as the condition has been satisfied with approval of this plan. Conditions are not deleted from consents if satisfied. Secondly, the last paragraph of the condition relates to installation and should remain but as this park is to be handed over to Council the last sentence about ongoing maintenance should be clarified as maintenance is essentially required until title handover, only."

"Condition 130 does not permit electrical kiosks in the public park however its original location has not changed. Is this land to be excised from the park ? If so, is the 3000sqm requirement still met?"

Although Council Officers had earlier indicated that deletion of the condition would be appropriate, based on this advice, it is agreed that deletion of Condition 55 is not appropriate in this instance, primarily for two reasons:

- The last paragraph of Condition 55 provides important information regarding the installation of the landscaping;

- Condition 55 does not apply solely to the park, but to all on-site landscaping, including the Pocket Park extension, through site links, and landscaping within communal open space areas, and private courtyards.

Condition 130 is able to be retained, which requires that the substation be provided with visual treatment as appropriate. Concerns remain with the current landscaped screening, as there may be some restrictions requiring combustible materials to be located away from the substation. This is subject to further discussions between Council and the applicant, and the size of the park will form part of these considerations.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

Section 96 Provisions

Pursuant to Section 96(1A) of the *Environmental Planning and Assessment Act 1979*, Council may only modify this consent if:

- a) It is satisfied that the proposed modification is of minimal environmental impact, and
- b) It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
- c) It has notified the proposal in accordance with the regulations, if they so require, or in accordance with the BBDCP 2013
- d) It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations.

The proposed Section 96(1A) Application to modify Development Consent No. DA-13/208 to include the approved landscaped plan within the consent, is minor in the context of the approved development, and the development as modified will be substantially the same development as was originally approved.

In accordance with Part 2 - Notification & Advertising of the Botany Bay Development Control Plan 2013, the Section 96(1A) Application was notified for a period of 14 days from 7 December 2016 to 21 December 2017, and the submissions have been considered elsewhere within this report.

Given the above, the proposed modifications satisfy the provisions of Section 96(1A) of the *Environmental Planning and Assessment Act 1979*.

S.79C(1) - Matters for Consideration – General

S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to the subject development

- State Environmental Planning Policy No. 55 – Contaminated Land
- State Environmental Planning Policy 2004 (BASIX);
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat buildings
- Botany Bay Local Environmental Plan 2013

The proposal amends the relevant conditions of consent, and a landscape design of a new park. The proposal does not require a detailed consideration of any of the abovementioned Planning Instruments, and the granting of approval to the proposed modifications will not be inconsistent with the objectives of these instruments.

Botany Bay Development Control Plan 2013

The proposed modifications do not raise any new matters in relation to the requirements of the BBDCP 2013.

S.79C(1)(a)(iv) - Provisions of Regulations

There are no additional considerations within the Regulations that are relevant to this modification.

S.79C(1)(b) - Likely Impacts of Development

It is considered that the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

S.79C(1)(c) - Suitability of the site

The proposed modification application does not affect the site itself and the suitability for development.

S.79C(1)(d) - Public Submissions

In accordance with Part 2 of Botany Bay DCP 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period from 7 December 2016 to 21 December 2016. A total of two (2) objection letters were received, with the following concerns being raised:

Issues with fencing:

- *Use of timber boundary fencing and the impact of the fencing from southerly winds, which have blown over existing colorbond fencing.*
- *The fencing is currently being maintained by Frasers, but Frasers will not be maintain the fence once the park is dedicated to Council.*
- *Potential for vandals to set timber fencing alight.*

- *Fences may be able to be climbed easily given that trees are proposed to sit adjacent to the fencing. This may be a security concern, and a safety concern, given there are pools currently located on adjoining properties.*

The objections note that the existing fences has been reinforced on several occasions, but continue to blow over. A masonry fence with concrete footings, or a cement panel fence, has been requested by one objector.

Comment:

The applicant has indicated to Council that the horizontal panels would be installed from the southern (park) side, and conditions are recommended to require that the planting be further removed from the neighbouring property.

The applicant has also indicated that the fencing structural design will take account of exposure conditions. The landscape planting and the location of the new buildings will minimise any impact from southerly winds.

The excessive height and number of the proposed trees along the northern boundary, with specific concerns included:

- *Potential for property damage*
- *Additional maintenance requirements (e.g. pruning, roof gutters).*
- *Impacts to solar access.*

The objections note that these problems are evident with the existing trees that sit on within the locality. One of the objections suggests that the large vegetation is provided only to absorb water to address seepage problems at the site.

Comment:

The trees proposed along the boundary line include Banksias, which are a medium, and a small Paperbark species that are unlikely to reach the proportions indicated on the landscape plan. Notwithstanding, Council and the applicant have agreed that these trees could be relocated further from the boundary, and a condition is recommended requiring these trees to be relocated 300mm further to the south. The single Angophora is proposed to be 6 metres off the boundary. Council and the applicant have agreed that this tree can be relocated, and a condition is recommended requiring this tree to be moved a further metre to the south.

The trees sit on the southern side of the neighbouring property and therefore any overshadowing will be limited to overhang from across the boundary. In these circumstances, the tree will allow sunlight during the winter months when the sun sits lower to the north. It is also noted that there are a few large trees on his property that already shade the private open space areas of these properties. Notwithstanding, the recommended conditions will minimise any overshadowing impact.

Request for the northern entrance to the park to be moved further towards the west. The owner of No.38 Kurnell Street has indicated that they have maintained the nature strip at the front of their property and intend to continue to do so. As an alternative, the objection also requests that the developer build a 1-2m high fence across the front of this property, to minimise the impacts to privacy.

Comment:

The image below taken from Google Streetview, indicates that a 'garden & rockery' have been established forward of the boundary line at No.38 Kurnell Street.



Figure 2

The northern pedestrian entries to the new park are achieved by continuation of the existing footpaths on each side of Kurnell Street. There is no vehicle access from Kurnell Street to the park. The twin entry solution enables a central landscape zone to be provided, in order to allow for the establishment of tall planting in order to filter views of the higher part of the development from Kurnell Street, whilst maintaining sight lines at pedestrian level. It is considered that the proposed location of the footpaths is appropriate.

While it is acknowledged that there will be increased pedestrian traffic along Kurnell Street associated with the park and the development, the pedestrian traffic will occur within the public domain, and it is not considered that any further privacy measures are warranted in this instance. Any front fence of the requested size will require development approval.

S.79C(1)(e) - Public interest

Granting approval to the proposed development will have no significant adverse impact on the public interest.

Conclusion

The Section 96 application, seeking to modify Development Consent No. 13/208 granted for a mixed use development at 52 Pemberton Street Botany seeks to incorporate the approved landscape plan within the development consent. The proposal has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and it is recommended that updated conditions be imposed requiring further amendments.

Attachment

Schedule 1 – Conditions of Consent

RECOMMENDATION

- A. That Council resolve pursuant to Section 96(1A) of the Environmental Planning and Assessment Act, 1979, to modify Development Consent No. 13/208, for the mixed use development, at 52-54 Pemberton Street Botany, as follows:
1. Modify Condition 1 to refer to the new landscape plan.
 2. Modify the previously deleted Condition 54 to indicate that further amendments to the new landscape plan are required.
 3. Modify Condition 55 to indicate that the condition only applies to the remaining landscape areas (including the Pocket Park extension known as Lot 30), and to delete requirements which are specific to the public parks.
 4. Modify Condition 158 to make reference to this modification.
- B. Incorporate the modifications in DA-13/208/07 (if approved), in to a single determination notice.
- C. That the objectors be advised of Council's decision.

Only the amendments to DA-13/208/06 are shown in the amended Schedule of Consent Conditions

Premises: 52-54 Pemberton Street Botany

DA No: 13/208/06

SCHEDULE OF CONDITIONS

GENERAL CONDITIONS

1. The development is to be in accordance with the following plans and endorsed with Council's stamp, except where amended by other conditions of this consent. Reference documentation is also listed.

Note: No approval is given for access to the basement car park off New Street One as no owners consent was not provided to allow this. In accordance with Condition 13, the consent authority allowed access to the Townhouses via Wilson Street by way of deletion of two townhouses.

Drawing No.	Author	Dated
<i>DA-1110_E, Staging Diagrams – New Street, Issue F</i>	Group GSA	4 July 2016
DA-2000_0, B1 Basement Plan Overall, Issue G M	Group GSA	1 April 2015 13 April 2016
DA-2000_1, B1 Basement Plan – NV Quadrant, Issue G K	Group GSA	1 April 2015 13 April 2016
DA-2000_2, B1 Basement Plan – NE Quadrant, Issue G L	Group GSA	1 April 2015 14 April 2016
DA-2000_3, B1 Basement Plan – SE Quadrant, Issue G M	Group GSA	1 April 2015 14 April 2016
DA-2000_4, B1 Basement Plan – SW Quadrant, Issue G K	Group GSA	1 April 2015 13 April 2016
DA-2001, Ground floor plan – overall, Issue E K	Group GSA	1 April 2015 4 July 2016
DA-2001_A, Ground floor plan – Building A, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2001_B, Ground floor plan – Building B, Issue E J	Group GSA	1 April 2015 3 July 2016
DA-2001_D, Ground floor plan – Building D, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2001_E, Ground floor plan –	Group GSA	1 April 2015

Building E, Issue E P		4 July 2016
DA-2002, Level 01 plan – overall, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2002_A, Level 01 plan – Building A, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2002_B, Level 01 plan – Building B, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2002_D, Level 01 plan – Building D, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2002_E, Level 01 plan – Building E, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2003, Level 02 plan – overall, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2003_A, Level 02 plan – Building A, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2003_B, Level 02 plan – Building B, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2003_D, Level 02 plan – Building D, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2003_E, Level 02 plan – Building E, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2004, Level 03 plan – Overall, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2004_B, Level 03 plan – Building B, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2004_D, Level 03 plan – Building D,	Group GSA	1 April 2015

Issue E I		11 March 2016
DA-2004_E, Level 03 plan – Building E, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2005, Level 04 plan – overall, Issue D I	Group GSA	1 April 2015 13 April 2016
DA-2005_B, Level 04 plan – Building B, Issue E I	Group GSA	1 April 2015 13 April 2016
DA-2005_D, Level 04 plan – Building D, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2005_E, Level 04 plan – Building E, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2006, Level 05 plan – overall, Issue D I	Group GSA	1 April 2015 13 April 2016
DA-2006_B, Level 05 plan – Building B, Issue E I	Group GSA	1 April 2015 13 April 2016
DA-2006_D, Level 05 plan – Building D, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2007, Level 06 plan – overall plan, Issue D I	Group GSA	1 April 2015 13 April 2016
DA-2007_B, Level 06 plan – Building B, Issue E I	Group GSA	1 April 2015 13 April 2016
DA-2007_D, Level 06 plan – Building D, Issue E J	Group GSA	1 April 2015 11 March 2016
DA-2008, Level 07 plan – overall plan, Issue D I	Group GSA	1 April 2015 13 April 2016
DA-2008_B, Level 07 plan – Building B,	Group GSA	1 April 2015

Issue E I		13 April 2016
DA-2009, Roof plan – overall, Issue E I	Group GSA	1 April 2015 13 April 2016
DA-2009_A, Roof plan – Building A, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2009_B, Roof plan – Building B, Issue E I	Group GSA	1 April 2015 13 April 2016
DA-2009_D, Roof plan – Building D, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2009_E, Roof plan – Building E, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-3000, Street elevations – 1-500, Issue E J	Group GSA	1 April 2015 13 April 2016
DA-3000_A, Street elevations – 1-500–Sheet 2, Issue B E	Group GSA	1 April 2015 11 March 2016
DA-3001, Elevations Sheet 1, Issue D G	Group GSA	1 April 2015 11 March 2016
DA-3002, Elevations Sheet 2, Issue D H	Group GSA	1 April 2015 13 April 2016
DA-3003, Elevations Sheet 3, Issue D G	Group GSA	1 April 2015 11 March 2016
DA-3004, Elevations Sheet 4, Issue D G	Group GSA	1 April 2015 11 March 2016
DA-3005, Elevations Sheet 5, Issue D G	Group GSA	1 April 2015 11 March 2016
DA-3100, Site Sections, Issue D H	Group GSA	1 April 2015

		13 April 2016
DA-3101, Sections Sheet 1, Issue D H	Group GSA	1 April 2015 13 April 2016
DA-3102, Sections Sheet 2, Issue D G	Group GSA	1 April 2015 11 March 2016
DA-8200, External colours & Finishes Schedule, Issue B E	Group GSA	1 April 2015 11 March 2016
Reference: 18240-5 Sheet 1 of 1	Dunlop Thorpe & Co	26 March 2015 3 March 2016
Reference: 18240-6 Sheet 1 of 1	Dunlop Thorpe & Co	26 March 2015 3 March 2016
Reference: 18240-7 Sheet 1 of 1	Dunlop Thorpe & Co	26 March 2015 3 March 2016
Reference: 18240-4 18240-5 18240_2_5 (B) Sheet 1 of 2	Dunlop Thorpe & Co	26 March 2015 11 January 2016 3 March 2016
Reference: 18240-4 18240-5 18240_2_5 (B) Sheet 2 of 2	Dunlop Thorpe & Co	26 March 2015 11 January 2016 3 March 2016
<i>Kurnell Street Stormwater Diversion</i> <i>341565-C-DR-SK0003 (Revision C)</i>	-	25 June 2015

Reference Document(s)	Author	Dated
<i>Statement of Environmental Effects</i>	<i>JBA Urban Planning</i>	<i>April 2015</i>
Design Report / SEPP 65 Design Verification Statement	Group GSA	1 April 2015
Remediation Action Plan	DLA	November 2014
Subdivision Drawings	Dunlop Thorp Co	26 March 2015

Waste Management Plan	GHD	March 2015
BASIX Report	Efficient Living	19 March 2015 11 March 2016
Geotechnical Report	Douglas Partners	March 2015
Stormwater Management & Flooding Analysis Report	Mott McDonald	March 2015
Landscape Drawings and Statement	Tract	1 April 2015
<i>Detail Plan Playground, Rev B</i>	<i>Tract</i>	<i>8 November 2016</i>
Transport Assessment	Ason Group	1 April 2015
Housing Diversity Assessment	JBA Urban Planning	March 2015
Acoustic Report	Acoustic Logic	25 March 2015
Access Report	Brentnall Technical Solutions	1 April 2015
<i>Wind Report</i>	<i>Windtech</i>	<i>31 March 2015</i>

~~Note: No approval is given for access to the basement car park off New Street One as no owners consent was provided to allow this. In accordance with Condition 13, the consent authority allowed access to the Townhouses via Wilson Street by way of deletion of two townhouses.~~

(Condition Amended DA-13/208/02)(Condition Amended DA-13/208/03) (Condition Amended DA-13/208/05) **(Condition Amended DA-13/208/06)**

- 1A. *Despite any other condition in this consent, no conditions preclude the proponent from undertaking the approved stormwater diversion works and associated amendments to drainage easements.*

Council releases its rights in relation to the existing drainage easements created by dealings Book 1517 No 745, Book 2640 No 50 and Book 2768 No 411. Council acknowledges that the new drainage system to be installed on the site as shown in the drawing provided by the applicant to Council titled 'Kurnell Street Stormwater Diversion' dated 26 June 2015 or any variation to the drawing agreed by Council (and the new easements to be registered in respect of the new drainage system) replaces and is in lieu of the existing drainage system and the rights conferred under the existing easements in respect of the upstream drainage demand from Kurnell Street. The applicant must register with any plan of subdivision that subdivides the land the subject of the existing easements, new drainage easements under the Conveyancing Act 1919 burdening the applicant's land on the site of the new drainage system and benefitting Council. The easements under Building A will be limited in stratum and have a width of 1.2m so as to encompass only the drainage system below the slab. The design of the public park will accommodate an overland flow path from Kurnell Street through to Wilson Street.

(New Condition added DA-13/208/02)

- 1B. *Despite any other condition of this consent, to enable a ~~staged~~ construction staging, the following conditions may be satisfied in accordance with the table below:*

CONSTRUCTION STAGE	CONDITIONS TO BE SATISFIED
<i>Prior to the First Construction Certificate for any Above Ground Works</i>	71
<i>Prior to Construction Certificate for the Relevant Building</i>	14, 15, 16, 44, 47, 48, 50, 57, 58, 59, 60, 64, 65, 76, 77, 78, 80, 81, 82, 83, 86, 89
<i>Prior to the Issue of any Occupation Certificate for the Relevant Building</i>	117, 119, 124, 125, 131, 141
<i>Prior to the Issue of any Occupation Certificate for Building B</i>	134, 139, 142, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158

Any condition not listed within the table above shall be satisfied as outlined in elsewhere within this consent.

(New Condition added DA-13/208/02) (Condition amended DA-13/208/03)

2. This Consent relates to land in Lot 1-5 DP 979152, Lot 51 in DP 15704, Lot 100 in DP 867427, Lot 1 DP 701262 and Lot 101 in DP 867427, as such, building works must not encroach on to adjoining lands ~~or other public places apart from any approvals granted for the road widening and to Pemberton Street which is to be submitted as a civil road works application unless otherwise required by these conditions of consent.~~ *(Condition Amended DA-13/208/02)*
(Condition Amended DA-13/208/03)
3. The applicant must, prior to the issue of Construction Certificate, pay the following fees:
- a) Development Control \$11,200.00
- Note: The Footpath Deposit bond that would ordinarily apply has been required as a Condition on DA 14/239 for demolition and tree removal.
4. Planning Agreement
- a) Prior to the issue of any Construction Certificate *for above ground works*, in accordance with the letter of offer dated 26 June 2015, the landowner and Botany Bay City Council are to enter into a planning agreement under Section 93F of the Environmental Planning and Assessment Act 1979.
- b) The preparation of the Planning Agreement and the works subject to the Planning Agreement are to be at no cost to Council.

- c) *Should the planning agreement not have been executed by both parties prior to the issue of the construction certificate for above ground works, payment of development contributions should be made, in accordance with the City of Botany Bay Contributions Plan 2005 -2010, as follows:*

Development Stage 1

Residential: ~~\$7,794,000~~ \$7,830,000

Less employee credits: ~~\$30,227.54~~ \$35,693.16

Total Payable: ~~\$7,763,772.46~~ \$7,794,306.84

Development Stage 2 – \$18,000

However, no contributions are payable for Development Stage 2, in accordance with the offer to enter into a Works In ~~King~~ Kind Agreement for the turning area at the end of Mahroot Street.

The Section 94 Contribution fees are subject to annual review and the current rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

The contributions are to be paid prior to issue any construction certificate for above ground work.

- d) *Should c) above have occurred, then following the planning agreement being executed by both parties, Council will refund to the applicant any amount over and above that is payable under the planning agreement.*

(Condition Amended DA-13/208/04) (Condition Amended DA-13/208/03) (Condition Amended DA-13/208/05)

5. The public park component of the development shall be maintained by the Applicant for a defects period twelve (12) months ~~after land dedication before handover to Council~~ and after final written approval of ~~its~~ their construction and fitout by Council, including all certifications of structural components and warranties. All liability for damage, theft, death and repair of ~~its~~ their components shall be borne by the Applicant. ~~A damage deposit or similar should be placed over this requirement. A defects bond shall be paid to Council, of 30% of the value of the cost of the park works, as advised in writing by Council.~~

The bond may be applied by Council to the establishment and maintenance of the ~~park~~ parks, during the 12 month period, in accordance with the approved ~~plan~~ plans and Council shall be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the approved ~~plan~~ plans.

(Condition Amended DA-13/208/02) (Condition Amended DA-13/208/03)

6. As a consequence of the development, the applicant is to provide traffic signals at the intersection of Pemberton Street and Botany Road. The applicant's contribution shall be proportional to the traffic generated from the subject development in the Wilson/Pemberton Street Precinct, ~~being \$380,677.00. The contribution is to be made prior to the issue of any Occupation Certificate.~~

This contribution is based on a costing at 30 June 2015 and may be indexed to reflect any

changes in costings at the time that the payment is made.

Note:

The traffic lights amount attributable the developer is based on an apportionment factor of 56.64% and is based on an estimated yield for the Parkgrove West site, 16 Pemberton Street Botany of 280 units; and 56 units at the site at 42 – 44 Pemberton Street.

(Condition Amended DA-13/208/02)

7.

a) The applicant must, at no cost or expense to Council.

- i) dedicate a 4 metres wide strip of land for road widening purposes adjoining and for the full length of the site frontage to Pemberton Street. Detail layout shall be in accordance with Wilson/ Pemberton Street Precinct Part 9 of the Botany Bay Development Control Plan 2013;
- ii) dedicate and embellish the public park of a minimum 3000sqm to Botany Bay Council;
- iii) Provide a Right of Way (*footway*) for public access via the east-west and north-south through site links;
- iv) upgrade the public domain and Council footpath area *along the site boundaries* on Pemberton Street, Wilson Street and Warrana Street with new paving at the applicant's expense. All improvements shall be in accordance with Council's Landscaping and Engineering specifications and requirements,
- v) provide suitable street lighting ~~to a high decorative standard~~ to the street boundaries of the site, on the development side of the road so to provide safety and illumination for residents of the development, with such street lighting meeting the relevant electricity authority requirements;
- vi) existing above ground electricity and telecommunication cables in Pemberton Street adjoining the site to be located below ground, at the applicant's expense, by underground cables, together with the provision of appropriate street light standards, drainage (if any), kerb and gutter, footway, bicycle paths, landscaping, traffic signs, to the relevant Australian Standards and Codes of Practice; and,
- vii) All land dedication, road construction, kerb and gutter, drainage, street trees and associated works are to be completed prior to the issue of the Occupation Certificate for ~~the development~~ *Building B*.
- viii) *Dedicate and embellish the Pocket Park extension.*
- ix) *Complete the turning area at the eastern end of Mahroot Street.*

Note that particular items listed above are also included within the Planning Agreement referred to in Condition 4.

(Condition Amended DA-13/208/02) (Condition Amended DA-13/208/04)

(Condition Amended DA-13/208/03)

8. The consent given does not imply that works can commence until such time that:
- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:
 - i) The consent authority; or,
 - ii) An accredited certifier; and,
 - b) The person having the benefit of the development consent:
 - i) Has appointed a principal certifying authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - iii) The person having the benefit of the development consent has given at least 2 days notice to the Council of the persons intention to commence the erection of the building.
- 9.
- a) All building work must be carried out in accordance with the provisions of the Building Code of Australia.
 - b) All plumbing stacks, vent pipes, stormwater downpipes and the like shall be kept within the building and suitably concealed from view;
 - c) The basement of the building must be designed and built so that on completion, the basement is a “fully tanked” structure, i.e. it is designed and built to prevent the entry of ground water / ground moisture into the inner part of the basement;
 - d) Air conditioning units must not be visible from any public place.
10. Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. ~~613844M~~ 613844M_02; ~~613873M~~ 613873M_02, and ~~613783M~~ 613783M_02 dated ~~30 March 2015~~ 11 March 2016, for the development are fulfilled and updated to reflect the amendments to the proposal.

Note: “relevant BASIX Certificate” means:

A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or

If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.

BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

(Condition Amended DA-13/208/03)

11. The following shall be complied with:

- a) The maximum floor space ratio shall not exceed 0.96:1 within the B4 Mixed Use Zone, and 1.55:1 within the R3 Medium Density Residential zone.
- b) The approved building heights is defined generally as follows:
 - i) Building A1 and A2 (within the B4 zone) shall be no greater than 3 storeys or 10 metres in height.
 - ii) Building B1 (west) along Pemberton Street (within the B4 zone) shall be no greater than 3 storeys or 12.4 metres in height, with the exception that Building B3 along Pemberton Street is 4 storeys or 16.5 metres.
 - iii) Building B3 (south wing) shall be no greater than 7 storeys or 25.5 metres and part 5 storeys or 19.5 metres.
 - iv) Building B (east wing) shall be no greater than 8 storeys or 28.6 metres.
 - v) Building B2 (north east wing) shall be no greater than 4 storeys or 15.5 metres.
 - vi) Building D2 (south/west wing) shall be no greater than 7 storeys or 25.3 metres.
 - vii) Building D3 (north-west wing) shall be no greater than 7 storeys or 25.4 metres.
 - viii) Building D3 (north wing) shall be no greater than 4 storeys or 15.3 metres.
 - ix) Building D1 (east wing) along Wilson Street shall be no greater than 3 storeys or 12.1 metres.
 - x) Building E1, along Wilson Street shall be no greater than 3 storeys or 11.5 metres.
 - xi) Building E2 shall be no greater than 5 storeys or 18.7 metres.
- c) The development must comply with the following minimum number of adaptable housing and shall be designed and constructed to comply with Adaptable Housing Class A:
 - i) 0 – 9 units – Nil;
 - ii) 10-30 units – 1 adaptable housing;
 - iii) 31-50 units – 2 adaptable housing;
 - iv) 51 plus – 2 units, plus an additional 1 unit for each 30 units;
- d) The number of ~~apartments~~ *dwelling*s must not exceed 435 *dwelling*s for Development Stage 1 and 1 *dwelling* for Development Stage 2, or the number of apartments as can be contained in compliance with sub conditions (a), (b) & (c) thereof, whichever is the lesser.

(Condition Amended DA-13/208/03)

12. All costs associated with these development conditions shall be borne by the applicant. If, when actioning these conditions, Council's solicitor is required to act on behalf of Council, then Council's solicitor's fees and charges shall also be borne by the applicant.

13. ~~While Building E and the townhouses are to be separated into 2 development stages. Development Stage 1 must provide for all vehicular access to Building E is approved, two of the proposed townhouses shall not be constructed, to provide alternate vehicular access to these dwellings from Wilson Street in accordance with DA-1110_E – Stage 1. Development Stage 2 may be constructed in accordance with DA- 1110_E – Stage 2, involving erection of an additional townhouse, provision of vehicular access points to Building E and the basement from Mahroot Street after the date on which either When alternate dedicated public access is available from the proposed “New Mahroot Street” or registration of a right of way over Lot 4 in DP 1203451 benefitting the Site so as to allow vehicular access via Mahroot Street., this matter may be re-visited. Amended plans in accordance with this condition are to be provided to the Director, City Planning & Environment, prior to the issue of a Construction Certificate.~~

(Condition Amended DA-13/208/02) (Condition Amended DA-13/208/03)

14. ~~Unit numbers B4305, B4306 and B4307 shall be deleted and that component of the building is to be removed. Amended plans in accordance with this condition are to be provided to the Director, City Planning & Environment, prior to the issue of a Construction Certificate.~~
(Condition Deleted DA-13/208/03)

15. ~~An additional 37 on-site visitor spaces are to be provided with no reduction in deep soil landscaped area. Amended plans in accordance with this condition are to be provided to the Director, City Planning & Environment, prior to the issue of a Construction Certificate.~~
(Condition Deleted DA-13/208/03)

16. ~~All floor to floor heights for residential habitable floors shall be reduced to 3.1 metres. Amended plans in accordance with this condition are to be provided to the Director, City +Planning & Environment, prior to the issue of a Construction Certificate.~~ (Condition Amended DA-13/208/02)
(Condition Deleted DA-13/208/03)

- 16A. All demolition works are to be undertaken in accordance with DA 14/239.

(Previously Condition 20, now moved from prior to Commencement of Works Section; DA-13/208/02)

- 16B. The approved stratum plans may be subject to amendment, as required by Council, to satisfy conditions of consent relating to the public parks, and the location of infrastructure, such as substations. (Condition Added DA-13/208/03)

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

17. The following condition is imposed by Ausgrid and is to be complied with:

- a) Ausgrid has two existing substations within the site. If these substations are to be removed, it will be necessary to establish new substations onsite before

decommissioning.

- b) New substations will be required to supply the proposed development.

18. The following conditions form the General Terms of Approval by the NSW Office of Water and must be complied with:

General

- a) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
- b) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any watertable watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high watertable elevations to prevent potential future inundation.
- c) Sufficient permanent drainage shall be provided beneath and around the outside of the watertight structure to ensure that natural groundwater flow is not impeded and:
 - A. any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the watertable might naturally rise in the location immediately prior to the construction of the structure; and
 - B. any elevated watertable is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - C. where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- d) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- e) The NSW Office of Water requires documentation (referred to as 'report') comprising measurements, maps, borelogs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to the NSW Office of Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing

restrictions.

Prior to excavation

- f) The following shall be included in the initial report:
 - A. measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including borelogs and three-dimensional identification information.
 - B. a map of the site and its immediate environs depicting the watertable (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the watertable during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.
 - C. details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
 - D. a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [The Office of Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.]
- g) The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
- h) Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
- i) Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.

- j) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).
- k) A copy of a valid development consent for the project shall be provided in the initial report.
- l) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called “tailwater”) must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.
- m) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

- n) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
- o) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
- p) Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
- q) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authority's approval and/or owner's consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
- r) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.

- s) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
- t) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water under appropriate safety procedures.

Following excavation

- u) Following completion of the dewatering operations, the Applicant shall submit to the NSW Office of Water, Parramatta Office, the completion report which shall include:
 - A. detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
 - B. a watertable map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
 - C. a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
 - v) The completion report is to be assessed by NSW Office of Water prior to any certifying agency's approval for occupation or use of the completed construction.
19. The following conditions are imposed by the Sydney Airport Corporation Limited (SACL) and must be complied with:
- Sydney Airports Corporation Limited (SACL) has raised no objection to the height of the development up to a level of 33.6 metres above Australian Height Datum (AHD). The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, and construction cranes etc. Should the development exceed 33.6 metres above AHD, a further application shall be submitted to Sydney Airports Corporation for approval.
- i) Should the height of any temporary structure and/or equipment greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161. Please note that construction cranes may be required to operate at a height significantly higher than that of the proposed development. A further application shall be submitted to Sydney Airports Corporation Limited for the erection of such temporary structures/construction equipment at the site. Any application for approval should be submitted to the Corporation at least 35 days prior to the commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293.
 - ii) Operation of construction equipment (i.e. cranes) should be obtained prior to any commitment to construct and the following information is required by SACL prior to any approval:

- The location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
 - The swing circle of any temporary structure/ equipment used during construction;
 - The maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment i.e. construction cranes, intended to be used in the erection of the proposed structure/activity;
 - The period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.
- iii) Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed “controlled activity” and is punishable by a fine of up to 50 penalty units.

The height of the PANS OPS surfaces component of the prescribed airspace at the site is 51.0 metres above Australian Height Datum (AHD). In accordance with Regulation 9 of the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, “a thing to be used in erecting the building, structure of thing would, during the erection of the building, structure or thing, intrude into PANS OPS airspace for the Airport, cannot be approved”.

PRIOR TO COMMENCEMENT OF ANY WORKS

20. ~~All demolition works are to be undertaken in accordance with DA 14/239.~~

(Condition 20 deleted and moved to now be Condition 16A; DA-13/208/02)

21. Prior to commencement of any works on-site, a dilapidation report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a qualified person and submitted to Council. The report shall include records and photographs of the following area that will be impacted by the development:

- a) All properties immediately adjoining the site;
- b) Pemberton Street, Warrana Street and Wilson Street; and

The applicant shall bear the cost of all restoration works to buildings/ structures and public infrastructure that been damaged during the course of ~~the demolition~~, site clearing and site remediation works. Any damage to buildings/structures, infrastructures, roads, lawns, trees, gardens and the like shall be fully rectified by the applicant/developer, at the applicant/developer’s expense. In addition, the following issues shall also be complied with:

- c) A copy of the dilapidation report together with the accompanying photographs shall be given to all immediately adjoining properties owners and public utility authorities. The report shall be agreed by all affected parties as a fair record of existing conditions prior to commencement of any works;

- d) A second dilapidation report, including a photographic survey shall then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report together with the accompanying photographs shall be given to Council, public utilities authorities and all adjoining properties owners;
- e) It is a condition of consent that should demolition, site clearing and site remediation works cause rise to public safety and/or workplace safety; works shall halt until absolute safety is restored;

Note: Prior to commencement of the surveys, the applicant/ owner of the development shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information shall be submitted to Council.

(Condition Amended DA-13/208/02)

22.

- a) There shall be no loss of support to the Council's nature strip area as a result of the construction within the site. Details prepared by a practicing Structural Engineer of how this support will be maintained during the demolition works shall be submitted to Council prior to the commencement of works.
- b) Council's property shall be supported at all times. Where any shoring is to be supporting (or located on) Council's property, certified engineering drawings showing all details including the extent of encroachment, the type of shoring and the method of removal, shall be submitted prior to the issue of *the relevant* Construction Certificate. If the shoring cannot be removed, it shall be cut to 150mm below footpath level and the gap between the shoring and any buildings shall be filled with a 5Mpa lean concrete mix.

(Condition Amended DA-13/208/02)

23. ~~Prior to the commencement of demolition work, a licensed demolisher who is registered with the WorkCover Authority must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy sent to Council (if it is not the PCA). A copy of the Statement must also be submitted to the WorkCover Authority.~~

~~The statement must be in compliance with: AS2601-1991 Demolition of Structures," the requirements of WorkCover Authority and conditions of the Development Approval, and must include provisions for:~~

- ~~a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";~~
- ~~b) Induction training for on-site personnel;~~
- ~~c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);~~
- ~~d) Dust control — Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire~~

~~and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;~~

- ~~e) Disconnection of Gas and Electrical Supply;~~
- ~~f) Fire Fighting — Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;~~
- ~~g) Access and Egress — No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;~~
- ~~h) Waterproofing of any exposed surfaces of adjoining buildings;~~
- ~~i) Control of water pollution and leachate and cleaning of vehicles tyres — Proposals shall be in accordance with the “Protection of the Environmental Operations Act 1997”;~~
- ~~j) Working hours, in accordance with this Development Consent;~~
- ~~k) Confinement of demolished materials in transit;~~
- ~~l) Location and method of waste disposal and recycling in accordance with the “Waste Minimisation and Management Act 1995”;~~
- ~~m) Sewer — common sewerage system;~~
- ~~n) On site monitoring both during asbestos removal and the remainder of demolition activities.~~

(Condition Deleted; DA-13/208/02)

24. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:

- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities to determine the position and level of services;
- b) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with:
 - i) The additional load on the system; and
 - ii) The relocation and/or adjustment of the services affected by the construction.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

25. ~~Prior to demolition of any building constructed before 1970, the person acting on this consent shall ensure compliance with Australian Standard AS2601-2001, Demolition of Structures by a person with suitable expertise and experience. This may involve a Work Plan that identifies any hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimize any dust nuisance and the disposal methods for hazardous materials, including:~~

- ~~a) Removal, cleaning and disposal of lead-based paint shall conform to the current EPA guidelines. Demolition of materials incorporating lead is to be conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the AS2601-1991 Demolition of structure.~~
- ~~b) Hazardous dust shall not be allowed to escape from the site. Any existing accumulations of dust (e.g.; ceiling voids and wall cavities) shall be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water shall not be allowed to enter the street and stormwater systems. Demolition is not to be performed during high winds, which may cause dust to spread beyond the site boundaries.~~
- ~~c) All contractors and employees directly involved in the removal of hazardous dusts and substances wearing protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices and shall adopt work practices in accordance with the requirements of WorkSafe's Control of Inorganic Lead At Work (NOHSC: 102(1994) and NOHSC: 2015(1994).~~
- ~~d) All lead-contaminated materials being disposed of in accordance with the Environment Protection Authorities Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999) and The Protection of the Environment Operations Act 1997 (NSW).~~

~~(Condition Deleted; DA-13/208/02)~~

26. Prior to commencement of any works application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993:

It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
- b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
- c) Permit for roads and footways occupancy (long term/ short term),
- d) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
- e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
- f) Permit to place skip/waste bin on footpath and/or nature strip,
- g) Permit to install temporary shoring under Council's road reserve, and
- h) Permit to use any part of Council's road reserve or other Council lands.

27. Erosion and sediment control devices shall be installed and in function prior to the

commencement of any ~~demolition~~, excavation or construction works upon the site in order to prevent sediment and silt from site works (including ~~demolition and/or~~ excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
(Condition Amended DA-13/208/02)

28. Any soil disposed of offsite shall be classified in accordance with the procedures in the NSW EPA Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes (1999).
29. The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
30. Shaker pads are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
31. The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW EPA Environmental Noise Control Manual.
32. The approved Waste Management Plan for the, shall be complied with at all times during ~~demolition~~ works and construction works.
(Condition Amended DA-13/208/02)
33. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A free copy of the sign is available from Council's Customer Service Counter.
34. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
35. The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to

this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.

36. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
- a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the Development Approval number;
 - d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
 - e) any such sign is to be removed when the work has been completed.
37. ~~All works carried out on the public roads shall be inspected and approved by Council's engineer. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages:~~
- ~~a) Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;~~
 - ~~b) Prior to placement of concrete (kerb and gutter and footpath);~~
 - ~~c) Prior to construction and placement of road pavement materials; and~~
 - ~~d) Final inspection.~~
- ~~Note: Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for additional inspections required to be undertaken by Council.~~
- (Condition Deleted DA-13/208/02)
38. ~~Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.-(Condition Deleted DA-13/208/02)~~
39. ~~The upper noise level from the demolition operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).~~
(Condition Deleted DA-13/208/02)
40. If any material containing asbestos is found on site during the ~~demolition~~ construction process the material is to be removed and disposed of in accordance with WorkCover requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.

(Condition Amended DA-13/208/02)

41. The operation shall not give rise to offensive odour or other air impurities in contravention of the *Protection of the Environment Operations Act 1997*. The Principle contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
- a) Covering excavated areas and stockpiles,
 - b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas,
 - c) Maintenance of equipment and plant to minimise vehicle exhaust emissions,
 - d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources,
 - e) All loads entering or leaving the site are to be covered,
 - f) The use of water sprays to maintain dust suppression,
 - g) Keeping excavated surfaces moist.
42. During ~~demolition~~, excavation, remediation and construction, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:
- a) Approved Erosion and Sediment Control Plan;
 - b) Approved Traffic Management Plan and;
 - c) Approved Construction Management Plan.

(Condition Amended DA-13/208/02)

43. The following trees existing on the site and the Council road reserve are required to be retained until the issues of building and basement setback, levels, tree retention, landscaping and public domain have been addressed and a revised Arborist report submitted.
- a) Tree 93, ~~88, 100, 104, 106~~ located on adjoining properties to the north.
 - ~~b) Tree # 46A - a Liquidamber in the Wilson Street frontage.~~
 - ~~c) Tree #55 - a Eucalyptus on the site.~~
 - d) All Council street trees in the Wilson ~~and Pemberton Street~~ road reserves.
 - ~~e) All other trees in the Wilson Street setback of the property.~~

In order to ensure that ALL of the above trees are protected during construction, the following is required :

- a) Prior to commencing any works on the property the trees are required to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The fence shall remain in place until construction is complete. This work is to be undertaken by an AQF Level 5 Consulting Arborist.
- b) The area within the fencing is to be mulched with leaf mulch to a depth of 100mm

- and a weekly deep watering program undertaken during construction.
- c) Fencing shall be erected to ensure the public footway is unobstructed.
- d) If there is insufficient space to erect fencing in a particular area, and after Council approval, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
- e) Before any works commence on site, the Applicant is required to contact Council for an inspection of the fenced TPZ's. Council approval is required prior commencement of any work.
- f) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.

(Condition Amended DA-13/208/02)

PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE

44. A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of Construction Certificate. The program shall detail:
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
 - b) The proposed phases of construction works on the site and the expected duration of each construction phase,
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
 - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
 - e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
 - f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
 - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
 - h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
 - i) Proposed protection for Council and adjoining properties, and
 - j) The location and operation of any on site crane. Please note that a crane may

require prior approval from Sydney Airports Corporation.

The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

45. A detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or/and Roads and Maritime Services) for approval. The plan shall:

- be prepared by a RMS accredited consultant,
- nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
- if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

46. Prior to any excavation works below 7m below ground level an acid sulfate soil (ASS) assessment shall be undertaken to determine the presence and extent of any ASS.

Note:

- i) Should any potential acid sulfate soil (PASS) or actual acid sulfate soil (AASS) be identified then the an Acid Sulfate Soils Management Plan shall be prepared which shall include any site specific procedures and mitigation measures required and a site analysis from a NATA registered laboratory; and
- ii) All recommendations of the report shall be implemented prior to the commencement of excavation or building works below 7m below ground level.

47. The provision of disabled access throughout the development is required and shall be in compliance with the Building Code of Australia Part D3 "Access for People with Disabilities" and Australian Standard AS1428.1 (2001) - Design for Access and Mobility - Part 1 General Requirements for Access - Buildings. This requirement shall be reflected on the Construction Certificate plans.

48. Prior to the issue of Construction Certificate, the construction drawings shall indicate the following:

- a) That water will be prevented from penetrating behind fittings/linings and into concealed spaces in laundry, sanitary areas and bathrooms etc;
- b) That floor to ceiling in ~~laundry and~~ bathroom areas to be tiled;
- c) That timbers used in the development are plantation, recycled or regrowth timbers ~~of~~

~~timbers grown on Australian farms or State forest plantations~~ and that no old growth or rainforest timbers are to be used in any circumstances; and

- d) That plumbing to each dwelling will be separated and adequately contained to prevent noise transmission and vibration.

(Condition Amended DA-13/208/02)

49. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$784,830.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.

50. Prior to the issue of Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority.

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

51. ~~The Applicant is to submit payment for a Tree Preservation Bond of \$40,000.00 to ensure the protection of all trees outlined in Condition 39 from damage during site works. The duration of the Bond shall be limited to a period of 12 months after issue of the Occupation Certificate. At the completion of the 12 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified Arborist. If the tree was found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time, then Council will forfeit all, or part thereof, of the bond. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.~~

(Condition Deleted DA-13/208/02)

52. The Pemberton Street setback shall be primarily a deep soil, permeable landscape zone and is to include medium canopy trees. ~~The 1.8m dividing terrace walls are to be reduced in height to be consistent with property boundary walls and allow street surveillance.~~ Landscape sections and elevations are required to accurately depict landscape treatment, hard elements and levels on this frontage. Terraced landscape areas are not recommended to ensure adequate space for tree planting, large shrubs, natural drainage (deep soil, not podium) and to ensure landscaping addresses and relates to the public domain. Sections are to be consistent with plan drawings and architectural. *(Condition Amended DA-13/208/02)*

53. ~~The Wilson Street setback shall be a deep soil and permeable landscaped area. Hard paving in the setback is to be minimised (patios, entries etc). This area must contain tree planting and must investigate the retention of existing trees to improve the interface with~~

~~existing low density residential opposite the site. In order to retain existing trees (as stipulated by Council), existing soil levels in this area must be maintained. This may require a re-evaluation of building and basement setbacks and levels. The setback area is to be primarily a deep soil, permeable landscape zone and is to include medium canopy trees. Dividing terrace wall heights and materials are to be consistent with property boundary walls and allow street surveillance. Landscape sections and elevations are required to accurately depict landscape treatments, hard elements and levels on this frontage. Terraced landscape areas are not recommended to ensure adequate space for tree planting, large shrubs, natural drainage (deep soil, not podium) and to ensure landscaping addresses and relates to the public domain. Sections are to be consistent with plan drawings and architectural. The treatment of this boundary must be consistent with adjoining new developments to the south and provide adequate landscaping adjoining the boundary line that is visible from the public domain. The 2.8m high boundary fencing is to be reduced for consistency with adjoining developments and to improve public domain resolution and interface. The proposed landscape treatment shall be re-designed to be more sympathetic with the street and to adequately and suitably ameliorate the development. The deep soil availability in this setback has not been maximised with large planters or by the planting of trees.~~ (Condition Deleted DA-13/208/02)

54. ~~An Arboricultural Report shall be submitted to Council in accordance with Part 3F of BBDEC2013. The Report shall be prepared by a qualified AQF Level 5 Consulting Arborist who is a practicing member of Arboriculture Australia, only. The report is to include all trees as described in Condition 39. The report is to describe the health and SULE of each tree and provide a management strategy to mitigate impacts.~~ (Condition Deleted DA-13/208/02)

The approved landscape plan, prepared by Tract, dated 8 November 2016 for the public parks (shown on the approved plans prepared by Dunlop Thorpe & Co as Pt Lot 29) shall be amended for the approval of Council's Landscape Architect. Changes shall include:

- a) Where there is no conflict with proposed seating walls, drainage infrastructure, and the like, plantings located adjacent to the boundaries shared with No. 38 Kurnell Street and No.69 Wilson Street are to be located approximately 300mm further to the south.**
- b) The Angophora Costata is to be located approximately 1m further to the south.**

Once approved by Council, landscaping shall be installed in accordance with the approved landscape plan as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times.

(Condition Amended DA-13/208/06)

55. The landscape areas **(excluding the public parks shown on the approved plans prepared by Dunlop Thorpe & Co as Pt Lot 29)** shown on the conceptual landscape plans by Tract and dated 1 April 2015, **and the extension to the Pocket Park**, shall be the

subject of detailed landscape construction documentation – plans, sections, elevations, construction details and specifications, to be submitted to and approved by the City of Botany Bay Council’s Landscape Architect. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with BBDCP2013. The detailed, construction level landscape plan shall include, but not be limited to:

- a) A site plan showing building envelopes, paved areas and areas to be landscaped.
- b) A detailed planting plan at 1:100 scale showing all plant locations, groupings and centres. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers/lawn in all landscaped areas.
- c) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking.
- d) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls.
- e) Areas of paving, schedule of materials, edge treatments and sectional construction details.
- f) All external and internal fencing, privacy screening and pergolas – elevations and materials.
- ~~g) Details of other landscape elements such as furniture, amenity lighting, artwork and water features. Provide sectional construction details and elevations.~~
- h) Planter box on slab sectional details. Planter box depths to be in accordance with BBDCP2013 and SEPP65.
- i) In communal open spaces, soft landscaping is to be maximised and accessways/ dissecting pathways minimised. Provide lawn as well as planted areas, trees for shade and seating.
- j) A mixture of tree heights and forms shall be used extensively throughout the site – in private courtyards, communal areas and in setbacks using small, medium and large canopy trees ranging in height from 3 to 15 metres. Trees must be of an appropriate scale to complement and ameliorate the development and to pedestrianise landscaped open spaces. Deep soil zones must include larger canopy trees. Setbacks are to include appropriate sized trees to soften the development and integrate it with the streetscape. Trees to be predominantly native, evergreen species using open canopy evergreens or some selected deciduous for solar penetration.
- ~~k) The public park shall incorporate playground equipment area of adequate dimensions and fitout and suited to the projected residential and local community, a casual fitness area and BBQ/picnic facilities. These should all be of adequate dimension to promote useability and functionality and well located for access and surveillance.~~
- ~~l) Playgrounds shall be designed in accordance with Australian Standards and all design and structural certifications provided to Council.~~
- m) Incorporate shared access paths (north-south or east-west) (to accommodate bicycles).
- n) Show the location of underground stormwater and rainwater tanks and the like and impact on landscape outcome.
- o) Provide landscape furniture and recreational facilities appropriate to the development such as BBQ areas, shelters, seating, ~~playground, water features~~ and the like.
- ~~p) Street setbacks are to be primarily green spaces for the required 3 metre landscaped setback width. Patios shall be provided in private landscape areas behind townhouses, not in the street frontage.~~

- q) Planting is to be provided to all ground floor townhouse rear private open spaces.
- r) Clearly demonstrate tree survival/growth within the sunken tree pits regarding watering, contaminated soils, potential impacts on tree growth, form and health. Will the planting result in mostly only canopy visible at the podium communal open space level and is this optimal regarding aesthetics, visual surveillance etc.
- s) *Amended landscape are to be submitted to Council including Large/wide format, ~~deep~~ planters ~~are required on to the podium to support trees, not linear type planters.~~*

Once approved by Council, landscaping shall be installed in accordance with the approved landscape as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times.

(Condition Amended DA-13/208/02) *(Condition Amended DA-13/208/06)*

- 56. A public domain improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath locations and paving (including segmental paving), street tree pit treatments, tree guards, in-road planted blister islands, street furniture, in ground landscaping, furniture. The Plan shall be in accordance with Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements and shall be consistent with the landscape drawings.
- 56A. *A plan of the Pocket Park extension shall be submitted for approval by Council. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, and the plan shall be compatible with the existing Pocket Park adjoining to the south. (New condition added DA-13/208/3)*
- 57. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
 - All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
 - For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.
- 58. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
 - All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,

- All service vehicles shall enter the property front in front out,
 - Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
 - Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
59. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- Disabled car parking spaces shall be provided and clearly marked as per the Traffic Impact Assessment Report by ASON Group, dated 1 April 2015, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
 - All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
60. Prior to the release of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Engineering and Regulatory Services Department, showing the method of access of building materials and plant to the property, and storage location on the property during construction and shall include all existing structures.
61. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.
- Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
62. A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on Pemberton Street adjacent to the development. The camera and its operation shall comply with the following:
- The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
 - The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
 - Distance from the manholes shall be accurately measured, and
 - The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline and detail maps recording which video is of which pipe shall be submitted to Council prior to the commencement of any works. A written acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

Note: If the existing pipe is full of debris preventing the effective inspection of the pit and pipe system, the contractor shall clear the pipe to a degree where CCTV inspection is possible at the applicants expense.

63. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:

- Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
- Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - The additional load on the system, and
 - The relocation and/or adjustment of the services affected by the construction.
- As part of this development, the stormwater drainage pipe from the Kurnell cul-de-sac and traversing the site, shall be diverted to Pemberton St and connect to existing stormwater drainage pit and pipe system on Pemberton St. Detail engineering drawings shall be in accordance with the submitted and approved by Council prior to the issue of the first Construction Certificate.
- The Ausgrid lighting poles along Warrana St *frontage*, will need to be decommissioned and new lighting poles shall be constructed satisfying V2 lighting requirements any other requirements as specified by Council, RMS and any other service provider,
- All above ground utilities *on site frontages*, shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider *prior to the occupation certificate for Building B*, and
- All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate any occupation certificate.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

(Condition Amended DA-13/208/02)

64. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval.

(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

The plans shall incorporate but not be limited to the following:

- The provision made in the Stormwater Management & Flooding Analysis Report by Mott MacDonald, dated March 2015,
- The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
- Provision of a minimum 10kL rainwater tank collection system for each separate Lot for internal reuse in accordance with Section 4 of Botany Bay's SMTG,
- No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,
- The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
- The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system,
- If an OSD system is proposed, incorporate a Stormwater Quality Improvement system to ensure compliance with Section 16 of Botany Bay's SMTG,
- The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
- The submission of detailed calculations including computer modelling where required supporting the proposal.

65. Prior to issue of any Construction Certificate, the construction plans shall be revised to address the following: -

- a) the maximum of reflectivity of glazing shall not exceed 20%;
- b) any exterior lighting shall be designed to comply with *Section 9.2.1 – Lighting in the Vicinity of Aerodromes Manual of Standards*;
- ~~c) all recommendations stated in the Internal Traffic Assessment Report, prepared by~~

~~Thompson Stanbury Associates, Ref 12-118, dated November 2012 shall be incorporated into the construction plans;~~

- d) bollards shall be installed at the shared spaces of the disabled parking bays to comply with AS2890.6;
- e) the number of disabled parking bays shall comply with AS2890.6;
- f) garbage bins collection area shall not obstruct the shared vehicle access driveway, fire escape exits, vehicle entrance to the basement car parking area; and
- g) an intercom system shall be provided at the vehicle entrance to the development. This is to ensure visitors can gain access to the visitor parking bays located within the basement car parking area.

(Condition Amended DA-13/208/02)

66. The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development. The applicant shall advise Council, in writing, of any existing damage to Council property before commencement of the development. Dilapidation survey reports (one prior to commencement and one at completion) of Council's assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council prior to the release of Construction and Occupation Certificate.

67. During ~~demolition~~, excavation, remediation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.

(Condition Amended DA-13/208/02)

68. ~~Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.~~

~~Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.~~

(Condition Deleted DA-13/208/02)

69. A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th Edition (2004) and submitted to the Principal Certifying Authority prior to the release of any Construction Certificate.

This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on

request.

70. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP) prior to the release of any construction certificate. This plan shall incorporate and reference the construction environmental management plan and address site limitations.

71. ~~A Site Audit Statement will be required for this site prior to the issue of any Construction Certificate.~~ To ensure the necessary assessment and remediation is completed a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse the any additional investigation and remediation proposed prior to the commencement of any works.

Evidence of this appointment shall be provided to council prior to the issue of any construction certificate.

(Condition Amended DA-13/208/04)

72. ~~A separate site audit statement for the park that is to be dedicated to council is required and Council will require that there is no ongoing management of any land that is to be dedicated to Council. The proposed park must be assessed using the appropriate National Environment Protection (Assessment of Site Contamination) Measure 199 as amended 2013 (NEPM 2013) exposure scenario of Public Open Space that includes parks and playgrounds.~~

(Condition Deleted DA-13/208/02)

73. The Remedial Action Plan (RAP) shall avoid the use of containment strategy and contaminants should be treated onsite or removed from the site whenever possible. Any remediation that utilises a containment strategy for contaminants must be accompanied by a Long-term Environmental Management Plan (LTEMP). This LTEMP must be added to the title of the site.

74. An Acid Sulfate Soils Management Plan, that has been prepared by a suitably qualified and experienced environmental/geotechnical consultant, shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the issue of any Construction Certificate. This plan shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The plan shall provide details of the following:

- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
- b) Management of acid sulfate affected excavated material;
- c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
- d) Run-off control measures for the acid sulfate affected soil.

This report shall be provided prior to the issue of any construction certificate and all recommendations of the report shall be implemented during works on site.

75. Prior to the issue of Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.

Note: The Long Service Levy may be paid in instalments, subject to the approval of the Long Service Levy Corporation.

(Condition Amended DA-13/208/02)

76. Prior to the issue of the Construction Certificate design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development.

77. Prior to issue of Construction Certificate, plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certifying Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:

- a) Waste and recycling for commercial users shall be in a separate room from the storage of waste and recycling for residential users;
- b) The rooms for the storage of garbage and recyclable materials shall be fully enclosed;
- c) Adequately ventilated and of a suitable size to contain compaction equipment;
- d) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;
- e) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation; and,
- f) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.

78. ~~The following requirements apply to telecommunication facilities in the building:~~

- ~~a) Appropriate access and space within the plant area of the building shall be provided for a minimum of three telecommunication carriers or other providers of broad-band access by ground or satellite delivery.~~
- ~~b) Appropriate ducting and cabling shall be provided for a minimum of three telecommunication carriers or other providers for telecommunication access and broad-band cabling to each apartment of the building.~~
- ~~c) The details of (a) and (b) above shall be submitted for the approval of the Principal Certifying Authority prior to issue of any Construction Certificate.~~

Details demonstrating that the NBN has been provided for all apartments shall be submitted to the Principal Certifying Authority prior to the issue of the relevant

Construction Occupation Certificate.

(Condition Amended DA-13/208/02) (Condition Amended DA-13/208/04)

79.

- a) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill;
- b) All lighting shall comply with AS4282-1997 Control of the obtrusive effects of outdoor lighting; and
- c) The installation of solar power to external space lighting. Details shall be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

80. Prior to issue of any Construction Certificate, the following measures shall be provided within the Construction Certificate documentation with respect to noise attenuation/treatment of the building/s in accordance with the criteria listed within this condition:

- a) the measures Referenced to the Acoustic Logic Noise Impact Assessment Revision 1 dated 25 March 2015 the development shall be designed and constructed such that in-flight aircraft noise is mitigated by effective sound insulation and complies the requirements of AS 2021 -2000 'Aircraft Noise intrusion - Building Siting and Construction'.

CRITERIA

- i) A detailed impact assessment of in-flight aircraft noise intrusion shall be conducted by a suitably qualified Acoustic Engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership prior to the issue of construction certificate to determine acoustic treatments required to ensure ~~road-traffic~~ *aircraft* noise does not exceed the relevant Conditions of Consent and legislative requirements. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate.
- b) The development shall be designed and constructed taking into account the requirements for effective sound insulation against external ~~road-traffic~~ *aircraft* noise intrusion and satisfies an internal sound pressure level less than LAeq 1 hour 40dBA, with the doors and windows closed.

CRITERIA

- i) A detailed impact assessment of external ~~road-traffic~~ *aircraft* noise intrusion shall be conducted by a suitably qualified Acoustic Engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership prior to the issue of construction certificate to determine acoustic treatments required to ensure road traffic noise does not exceed the relevant Conditions of Consent. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of a Construction

Certificate.

- c) The development shall be designed and constructed taking into account the requirements for effective sound insulation against external noise intrusion from industrial sources, associated land and water based Port Botany activities and all ground activities associated with the operation of Sydney Kingsford Smith Airport including aircraft take-offs and landings and satisfies an internal sound pressure level less than LA_{max} 50dBA, with the doors and windows closed.

CRITERIA

- i) A detailed impact assessment of noise from industrial sources, associated land and water based Port Botany activities and ground activities associated with the operation of Sydney Kingsford Smith Airport including aircraft take-offs and landings shall be conducted by a suitably qualified Acoustic Engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership prior to the issue of construction certificate to determine acoustic treatments required to ensure noise from these sources does not exceed the relevant Conditions of Consent. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate.
- d) The development shall be designed and constructed taking into account the requirements for effective sound insulation for mechanical plant/equipment installed and operated on the development, and
 - i) shall not give rise to an equivalent continuous (LA_{eq}) sound pressure level at any point on any residential property, external apartment balcony or external apartment window greater than 5dBA above the existing background LA₉₀ level (in the absence of the noise under consideration).
 - ii) shall not give rise to an equivalent continuous (LA_{eq}) sound pressure level at any point on any residential property, external apartment balcony or external apartment window that exceeds LA_{eq} 50dBA daytime and LA_{eq} 40dBA nighttime.
 - iii) shall not give rise to an equivalent continuous (LA_{eq}) sound pressure level at any commercial/industrial premises that exceeds LA_{eq} 65dBA.

For assessment purposes the LA_{eq} levels referenced above in sub-clauses i), ii) and iii) shall be assessed over a 15 minute period and adjusted in accordance with procedures referenced in the NSW Industrial Noise Policy for tonality, frequency weighting, impulsive characteristics, fluctuation and temporal content where necessary.

CRITERIA

- iv) A detailed noise impact assessment shall be conducted by a suitably qualified Acoustic Engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership prior to the issue of the construction certificate to determine acoustic treatments required to ensure that noise from mechanical plant/equipment systems installed and operated on the development does not exceed the relevant Conditions of Consent. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate.
- e) Prior to any field acoustic compliance testing of internal walls and floors a report shall

be provided to the testing Acoustic Engineering certifying that all internal walls and floors within the development are constructed in accordance with the details submitted the documentation provided for Construction Certificate. Any variations to CC approved documentation shall be approved by the Principal Certifying authority and identified in the report.

81. Prior to the issue of Construction Certificate, a minimum ~~777~~ 806 off-street car parking bays as defined in AS2890.2 shall be provided to the development as shown on the approved architectural plans. All parking bays and loading bays shall be line marked. The allocation of parking bays shall be in accordance with the following:-
- a) ~~777~~ Parking bays shall be allocated to commercial tenancies, residents and visitors parking only. The allocation of parking bays shall be based on the following rate:
 - ~~9~~ Commercial units 1 space/50m² GFA
 - Studio/ 1-bedroom unit 1 space/unit
 - 2/3 and 4 bedroom 2 spaces/unit
 - b) ~~Forty Eight (48)~~ Eighty-five (85) off-street parking bays shall be made available at all times for visitors parking, with minimum one (1) parking bay to also be used as car wash bay.
 - c) The allocation of disabled parking and shall be based on the following rate:
 - Adaptable Studio/ 1-bedroom unit 1 space/unit
 - Adaptable 2/3 and 4 bedroom 2 spaces/unit
 - d) At least one (1) disabled parking bay shall be available for visitor parking.
 - e) A minimum one (1) car wash bays shall be provided and shall be connected to water and sewer.
 - f) The proposed car parking facility (space size, aisle widths, headroom clearance gradients and safe sight distance etc) shall be designed to ensure all vehicles visiting the site can safely enter and leave in a forward direction in accordance with relevant sections of AS2890. The architectural plans shall be amended where required and Traffic Engineering certification confirming compliance shall be submitted for approval with the Construction Certificate application.

(Condition Amended DA-13/208/02) (Condition Amended DA-13/208/03)

82. Prior to the issue of Construction Certificate, the measures required in the Wind Impact Assessment, Report prepared by Windtech Pty Ltd dated 31 March 2015 shall be detailed on the Construction Certificate plans.
83. Prior to the issue of Construction Certificate, a Certificate under Section 73 of the Sydney Water Act 1994 shall be obtained and submitted to Council for each stage of construction to ensure that the developer has complied with all relevant Sydney Water requirements, including appropriate connections, correctly sized amplifications, procurement of trade waste agreements, where necessary, and the payment of developer charges.

Note: Immediate application should be made to Sydney Water for this Certificate to avoid problems in servicing the development.

84. ~~Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:~~

- a) ~~The rooms for the storage of garbage and recyclable materials shall be:~~
 - i) ~~fully enclosed;~~
 - ii) ~~adequately ventilated;~~
 - iii) ~~Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;~~
 - iv) ~~The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation.~~
 - v) ~~Washing facilities shall be provided within close proximity to the garbage and recycling storage area.~~
- b) ~~All garbage must be collection within the site. The head clearance of the loading dock area to facilitate this must be 4.6 metres.~~

~~(Condition Deleted DA-13/208/02)~~

85. ~~A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate and its location and specifications endorsed on the construction drawings.~~

~~(Condition Deleted DA-13/208/02)~~

86. Prior to the issue of the Construction Certificate, detailed construction plans in relation to the development shall be revised and submitted to Council for approval. The plan shall be revised to include the following:

- a) Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distances stipulated in AS 2890.2.
87. The fire hydrant and booster assembly are required to be housed within an external façade/wall of the building or elsewhere within the building structure and shall be enclosed/screened with doors to Council approval.
88. The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc.
89. Any air conditioning units are to be located so that they are not visible from the street or public place and are not obscure windows/window frames or architectural features of the

development with details shown on plans submitted with the construction certificate.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS RELATED TO THE DEVELOPMENT

90. In order to ensure that ALL of the trees required to be retained ~~in Condition 39~~ are protected during construction, the following is required :

- a) All TPZ's as well as the entire Council nature strip are a "No-Go" zone. There shall be no access to the property excluding existing crossovers, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer.
- b) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.
- c) Excavation within the canopy dripline and within an area extending 3 metres outward of the canopy dripline of any street tree shall be carried out manually using hand tools to minimise root damage or disturbance.
- d) Tree roots 40mm in diameter or greater that require pruning shall be done only under the direction of Council's Tree Officer after a site inspection so as not to unduly impact or stress the tree.
- e) Ensure that there is no damage to the canopy, trunk or root system (including the surrounding soil) of any tree. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under separate application.
- f) The Applicant must ensure a minimum offset of 3 metres between any driveway crossover and street tree. Excavation for the crossover shall be undertaken manually. If major roots are encountered Council's Tree Officer is required to inspect and provide advice.
- g) Masonry boundary fencing/walls or retaining walls shall be of piered or bridged construction to minimise damage to major or structural street tree roots. Trench or strip footings are not permitted. If a tree root 40mm diameter or greater is in the location of a pier and the root cannot be cut without compromising the tree (must be obtained after Council inspection and advice), the pier will need to be relocated and the root bridged.
- h) There shall be no walls retaining or otherwise, pavements, change in levels, trenching for new sub-surface utilities or the location of new overhead services within the primary root zone or canopy of any tree. Any such structures in close proximity to trees must accommodate tree roots without damage or pruning.
- i) The Applicant shall undertake any tree maintenance/remedial pruning as required by Council at the completion of construction.

If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.

(Condition Amended DA-13/208/02)

91. ~~A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.~~

(Condition Deleted DA-13/208/02)

92. Erosion and sediment control devices shall be installed and functioning prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines including the *Protection of the Environment Operations Act 1997*.

These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

93. ~~The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.~~ *(Condition Deleted DA-13/208/02)*

94. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge shall be provided in this report.

Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.

95. Any new information that comes to light during ~~demolition~~ or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.

(Condition Amended DA-13/208/02)

96. All remediation work must be carried out in accordance with:

- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites'; and
- b) NSW Environment Protection Authority (NSW EPA) guidelines under the

Contaminated Land Management Act 1997; and

- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
 - d) The ‘*Remediation Action Plan - 47-67 Wilson Street Botany NSW 2019*’ prepared by DLA Environmental, Document No. S002334 dated November 2014; and
 - e) Any recommendations of the appointed NSW Environment Authority (EPA) Accredited Site Auditor.
97. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
 - b) Protection of the Environment Operations Act 1997.
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
 - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
98. The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the Acid Sulfate Soil Management Plan required to be submitted prior to any construction certificate including:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil; and
 - b) Management of acid sulfate affected excavated material;
 - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
 - d) Run-off control measures for the acid sulfate affected soil.
99. ~~For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system.~~
- ~~If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.~~
- ~~(Condition Deleted DA-13/208/02)~~
100. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.
101. To prevent contaminated soil being used onsite and to ensure that it is suitable for the

proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:

- a) Office of Environment and Heritage (OEH) approved guidelines; and
- b) Protection of the Environment Operations Act 1997; and
- c) Protection of the Environment Operations (Waste) Regulation 2014.

All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

102. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan;
- b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
- c) Protection of the Environment Operations Act 1997.

103. During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.

(Condition Amended DA-13/208/02)

104. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

105. During construction, the principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan if required under this consent;
- b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
- c) Protection of the Environment Operations Act 1997.

Where there is any conflict The Blue Book takes precedence.

Note: The International Erosion Control Association – Australasia (<http://www.austieca.com.au/>) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The "Do it Right On Site," can be down loaded free of charge from Council's website and further information on sediment control can be obtained from

www.ssroc.nsw.gov.au.

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

106. During construction and any associated deliveries activities, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:-
- a) Approved Erosion and Sediment Control Plan; and
 - b) Approved Construction Traffic Management Plan.
107. All works carried out on the road reserve (including future road reserve area) shall be inspected and approved by Council’s engineer. Documentary evidence of compliance with Council’s requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages: -
- a) Initial pre-construction on-site meeting with Council’s engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works
 - b) Prior to backfill of street drainage pipes
 - c) Prior to placement of concrete (vehicular crossings, kerb and gutter, footpaths and shared pedestrian/cyclist paths)
 - d) Prior to placement of road pavement
 - e) Final inspection

Council’s inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for any additional inspections undertaken by Council.

108. Construction Noise shall be in accordance with the following:
- a) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority’s Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
 - b) Level Restrictions
 - i) Construction period of 4 weeks and under:
 - ii) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the

background level by more than 20dB(A).

- c) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - i) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- d) Time Restrictions
 - i) Monday to Friday 07:00am to 06:00pm
 - ii) Saturday 07:00am to 04:00pm
 - iii) No Construction to take place on Sundays or Public Holidays.
- e) Silencing
 - i) All possible steps should be taken to silence construction site equipment.

109. The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW EPA Environmental Noise Control Manual.

110. ~~All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times. (Condition Deleted DA-13/208/02)~~

111. ~~A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out~~

- ~~a) stating that unauthorised entry to the work site is prohibited;~~
- ~~b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;~~
- ~~c) the Development Approval number;~~
- ~~d) the name of the Principal Certifying Authority including an after hours contact telephone number; and,~~
- ~~e) any such sign is to be removed when the work has been completed.~~

~~(Condition Deleted DA-13/208/02)~~

112. Construction Operations

- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
- b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property

is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.

- d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.
113. During *Demolition*, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be made safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council. *(Condition Amended DA-13/208/02)*
114. During *Demolition*, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land. *(Condition Amended DA-13/208/02)*
115. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.

PRIOR TO THE ISSUE OF ANY OCCUPATION CERTIFICATE

116. A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.
- The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the proposed residential and public park use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.

117. To ensure that the site is suitable for the proposed uses, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management Act 1997* shall be submitted to Council clearly demonstrating that the site is suitable for the proposed residential and dedicated public park use. This shall be provided prior to the release of any Occupation Certificate.

A separate site audit statement for the ~~park~~ parks that is to be dedicated to council is required and Council will require that there is no ongoing management of any land that is to be dedicated to Council. The proposed ~~park~~ parks must be assessed using the appropriate NEPM 2013 exposure scenario of Public Open Space that includes parks and playgrounds.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) for each SAS completed prior to the issuing of any Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.

118. Prior to the issue of any Occupation Certificate, the applicant shall lodge with the Council a performance bond of \$514,770.00 against defective public civil works undertaken by the main contractor for a period of twelve (12) months from the date of the completion agreed by Council. The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee, which will be refundable (with no interest) subject to the approval of Council at the end of the maintenance period. In this period, the Applicant is liable for any part of the work, which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary. (*Condition Amended DA-13/208/02*)

119. A report is to be submitted to the Principal Certifying authority prior to the issue of Occupation Certificate addressing the following.

- a) Field testing and evaluation of internal walls and floor insulation systems is to be carried out at a post construction stage by a suitably qualified Acoustic Engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership to demonstrate compliance with BCA Acoustic requirements. The report is to include details of the walls and floors separating apartments. Apartments with carpet covered floors shall be identified in the report.
- b) All noise reduction measures specified in the CC Noise Assessment reports and all other relevant conditions of consent shall be validated by a Certificate of Compliance prepared by an Acoustic Consultant. The report shall include measurement results from site attended noise audits and unmanned noise monitoring conducted over not less than three (3) consecutive 24 hours periods to demonstrate that the Development Conditions of Consent are satisfied.

120. All vehicular crossings are to be constructed prior to the issuing of any Occupation Certificate (or the completion of work or the use of the building). The applicant shall make a separate application to Council's Customer Service Counter to construct (or reconstruct) a vehicular crossing (either using Council's or own forces) to all vehicular entry points to the site. All vehicular crossings, which were shown on submitted plans, shall be in the correct location. All redundant vehicular crossings shall be removed and replaced to fit the main

footpath cross-section.

121. ~~Prior to the release of any Occupation Certificate, the following works shall be completed to Council's satisfaction at the applicant's expense to Council's satisfaction:~~
- ~~a) Dedicate at no cost to the Council that part of land required for road widening along the site's Pemberton Street frontage; and~~
 - ~~b) The construction of new vertical kerb and gutter and associated footpath and landscaping paving along the entire frontage of the site to Pemberton Street; and~~
 - ~~c) The asphalt sheeting of half road width including reconstruction of any damaged road pavement along the entire frontage of the site to Pemberton Street; and~~
 - ~~d) The overhead power cables to this development site frontages have been undergrounded; and~~
 - ~~e) The construction of underground piped drainage system where required including any other necessary engineering works where required to make the construction effective; and~~
 - ~~f) The intersection of Botany Road and Pemberton Street shall be signalised with traffic lights in compliance with the requirements of the Roads and Maritime Service (RMS).~~
- ~~(Condition Deleted – see Condition 139 DA-13/208/02)~~

122.

- a) Prior to the issue of the Occupation Certificate a Traffic Management Plan prepared by a suitably qualified Traffic Engineer shall be prepared and submitted to the Principal Certifying Authority and Council addressing traffic management measures required for Kurnell Street, Herford Street and Warana Street.
- b) The Traffic Management Plan shall be submitted to Council for consideration and any traffic management measures required shall be the subject of a separate development application to Council to undertake the necessary traffic management works at no cost to Council.

123. All services (Utility, Council, etc) within the road reserve (including the footpath) affected by the proposed development shall be relocated/adjusted where required to match the proposed/existing levels. All costs are to be borne by the applicant.

124. Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Prior to the issues of a Final Occupation Certificate, as required by Council's DCP for multi-unit dwellings:

- a) Mailboxes shall be provided to all units in accordance with Australia Post standards; and
- b) The name and address of the premises shall be displayed in a visible position.

125. Prior to the issue of an Occupation Certificate, a Certificate from a Registered Surveyor

shall be submitted to the Principal Certifying Authority to the effect that:

- a) the maximum floor space ratio shall not exceed 0.96:1 within the B4 Mixed Use Zone, and 1.55:1 within the R3 Medium Density Residential zone and shall comply with the following maximum height restrictions:
 - i) Building A1 and A2 (within the B4 zone) shall be no greater than 3 storeys or 10 metres in height.
 - ii) Building B1 (west) along Pemberton Street (within the B4 zone) shall be no greater than 3 storeys or 12.4 metres in height, with the exception that Building B3 along Pemberton Street is 4 storeys or 16.5 metres.
 - iii) Building B3 (south wing) shall be no greater than 7 storeys or 25.5 metres and part 5 storeys or 19.5 metres.
 - iv) Building B (east wing) shall be no greater than 8 storeys or 28.6 metres.
 - v) Building B2 (north east wing) shall be no greater than 4 storeys or 15.5 metres.
 - vi) Building D2 (south/west wing) shall be no greater than 7 storeys or 25.3 metres.
 - vii) Building D3 (north-west wing) shall be no greater than 7 storeys or 25.4 metres.
 - viii) Building D3 (north wing) shall be no greater than 4 storeys or 15.3 metres.
 - ix) Building D1 (east wing) along Wilson Street shall be no greater than 3 storeys or 12.1 metres.
 - x) Building E1, along Wilson Street shall be no greater than 3 storeys or 11.5 metres.
 - xi) Building E2 shall be no greater than 5 storeys or 18.7 metres.

126.

- a) An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.
- b) At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the Issue of an Occupation Certificate.
- c) The contractor shall be engaged weekly for a minimum period of 26 weeks from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.

127. The Applicant is to submit payment of a Street Tree Maintenance Bond of \$30,000.00. The duration of the Bond shall be limited to the 12 month maintenance and defects period after planting of the new street trees and inspection and written approval from Council. At the completion of the Bond period the Bond will be refunded pending a satisfactory inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.
128. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
129. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements :
- a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
 - e) Finish externally with a suitable paint, render or tile *to Council's satisfaction* ~~co-ordinate with the colour schemes and finishes of the building.~~

(Condition Amended DA-13/208/02)

130. All electrical kiosks/substations, fire booster assemblies or similar utilities must be housed within the external face of the building structure ~~and~~ or screened from view from the public domain area. The utilities must be *appropriately* screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to installation. ~~The 2 x electrical kiosks have not been incorporated into the building structure and stand alone on the street~~

~~frontages. The fire booster assemblies are not indicated. These must be incorporated into the building structure and screened with walling and doors.~~

Electrical kiosks shall not be provided on any land to be dedicated to Council, including public parks, or on land containing easements for which Council will become the beneficiary.

(Condition Amended DA-13/208/02) (Condition Amended DA-13/208/03)

131. Prior to the issue of either an Interim or Final Occupation Certificate of the relevant stage, documentation from suitably qualified engineer shall be submitted to the Principal Certifying Authority certifying that the car parking area, loading area, turning area access ramps, driveways and internal circulation driveways have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2 and AS2890.6 requirements. All internal circulation road network, parking and loading facilities shall be clearly designated, sign posted (including "Passenger Vehicle Only", "Entry Only" and "Exit Only" signs) and line marked. Signage and line marking shall comply with the current version of Australian Standards.
132. Prior to the issue of either an Interim or Final Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
133.
 - a) Prior to the issue of either an Interim or Final Occupation Certificate, the construction of the stormwater drainage system of the proposed development shall be completed in accordance with the approved stormwater management construction plan(s), *or as otherwise agreed by Council.*
 - b) Documentation from a practicing and qualified Civil Engineer experienced in stormwater drainage design shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed in accordance with the approved stormwater management construction plan(s) and accepted practice.

(Condition Amended DA-13/208/02)
134. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the *Building B* development and release of damage deposit.

(Condition Amended DA-13/208/02)
135. A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on Pemberton Street and the new stormwater pipe servicing the Kurnell Street catchment.

The camera and its operation shall comply with the following:

- The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
- The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
- Distance from the manholes shall be accurately measured, and
- The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline and detail maps recording which video is of which pipe shall be submitted to Council for review. Any defect/damage to the culvert/pipeline since the commencement of construction on the site shall be repaired in full to the satisfaction of Council. A written acknowledgement shall be obtained from Council (attesting this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

136. Prior to the issue of ~~the~~ *an* Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) *or as otherwise agreed by Council* and all relevant standards.
(Condition Amended DA-13/208/02)

137. Prior to the issue of either an Interim or Final Occupation Certificate, the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in Condition No. ~~69~~ 80 of this consent have been carried out and certify that the construction meets those requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

138. The name of the development, street numbers and unit numbers shall be clearly displayed with such numbers being in contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council and the PCA for approval prior to the release of the Occupation Certificate.

139. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works *to Council's satisfaction and at the applicant's expense*:

- ~~a) On Botany Road and Pemberton St, the applicant shall contribute to the cost of the construction of the new Traffic Signals,~~
- b) *Dedicate at no cost to the Council that part of land required for road widening along the site's Pemberton Street frontage*
- c) *The construction of new vertical kerb and gutter and associated footpath and landscaping paving along the entire frontage of the site to Pemberton Street*
- d) *The asphalt sheeting of half road width including reconstruction of any damaged road pavement along the entire frontage of the site to Pemberton Street,*

- e) On Pemberton St, carry out all civil works as per the Road Widening and Verge Works by Mott MacDonald, dated 25 March 2015,
- f) On Warrana St, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications,
- g) On Warrana St, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications,
- h) On Wilson St, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications,
- i) On Wilson St, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications,
- j) On Kurnell St, adjacent to the development, reconstruct the cul-de-sac stormwater inlet pit(s) with minimum 2.4metre Lintels in accordance with Council's Infrastructure Specifications, and
- k) On Kurnell St, adjacent to the development, reconstruct the cul-de-sac kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications.

Note that particular items listed above are also included within the Planning Agreement referred to in Condition 4.

(Condition Amended DA-13/208/02)

140. Prior to the issue of the Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.

141. Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:

- a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording,
- ~~b) Restriction on use of land for Compensatory Flood Storage. Refer to Appendix D of the SMTG for suggested wording, and~~
- c) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.

(Condition Amended DA-13/208/02)

142. Prior to the issue of any Occupation Certificate, the following is to be complied with:

- a) Dedicate *the public park and the Pocket Park extension* to Council and at no

expense to the Council and generally in accordance with the Subdivision Drawings by Dunlop Thorpe & Co. dated 26 March 2015.

(Condition Amended DA-13/208/02) (Condition Amended DA-13/208/03)

143. The Pemberton Street public footpath shall be re-constructed in accordance with Council specifications and the final, approved public domain plan. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications only.

Note: Construction hold points and Council inspections are required at the following points:

- (i) after formwork installation and to prior pouring the concrete blinding slab,
- (ii) at the commencement of paving works, and
- (iii) at final completion.

Council approval of public domain works is required prior issue of an Occupation Certificate.

144.

- a) That before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
- b) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building.

145.

- a) Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.
- ~~b) Condition Nos. 112 to 141 are pre-conditions prior to the issue of the Occupation Certificate.~~

(Condition Amended DA-13/208/02)

OPERATIONAL CONDITIONS

146. The *private* stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the

appropriate Environmental Guidelines.

(Condition Amended DA-13/208/02)

147. New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a defects and maintenance period of twelve (12) months after written approval of the street tree planting by Council. Maintenance includes twice weekly watering to sustain adequate growth, bi-annual feeding, weed removal around the base, maintenance of a 100mm deep mulch ring at all times and replacement of damaged, dead, diseased, declining or stolen plant material at any time during the 12 month period. Maintenance does not include pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time. This includes existing and new street trees. All pruning work is undertaken by Council only.
148. Ongoing maintenance of the grass/landscaped nature strips that are located outside the property boundaries and within the road verges shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass or plant material in accordance with the approved landscape plan.
149. Any subsequent Strata Subdivision must be accompanied by a formal copy of the By-Laws which shall be in accordance with the plans and documentation approved under this Consent and should also address the following matters:
 - a) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No.13/208;
 - b) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No.13/208;
 - c) Responsibilities regarding the maintenance of the car wash bays by the Owners Corporation / building owner;
 - d) Responsibilities for ensuring owners and/or tenants have adequate and hygienic disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times in accordance the conditions of this consent;
 - e) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are put out for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises by 12.00 noon;
 - f) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997;
 - g) Responsibilities to ensure that graffiti is removed as soon as practicable. In this regard a graffiti management plan is to be incorporated into the maintenance plan for the development;

- h) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the *Environmental Planning and Assessment Regulation 2000*.
150. All vehicles (including deliveries) shall enter and exit the premises to the public roads in a forward direction.
151. The landscaped areas on the property shall be installed and maintained in accordance with approved landscaped documents, the conditions of consent, Council's DCP and to Council's satisfaction at all times.
- 152.
- a) All parking areas shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods.
 - b) Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas.
153. The operation of plant equipment shall comply with the City of Botany Bay's General Noise Criteria is as follows:
- a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration). The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
 - b) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.
- Note: 'Offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2000*, (See advisory notes).
- b) Noise controls specific to the amenity of the residential neighbourhood
 - i) The La10 noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5 dB between 7:00pm one day and 7:00am the day following Monday to Sunday when measured at the boundary of any residential property; and,
 - ii) Notwithstanding compliance with the above (Condition No. 72(c)(i)), the noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 7:00pm one day and 7:00am the day following Monday to Sunday.

154. Internal lighting should be left on at night to communal corridors and emergency exits enable patrolling police, security guards and passing people to monitor activities within the businesses and ground floor common areas.
155. Any new street trees shall be maintained by the Owner/Strata Corporation for 12 months after planting. Maintenance includes watering twice weekly for a minimum period of 4 months (or until established) and after that at a frequency to sustain adequate growth, bi-annual feeding with a suitable fertilizer, weed removal and replenishment of the mulched base, but does not include trimming or pruning the trees under any circumstances. Any trees that fail to thrive shall be replaced by the owner/strata corporation to Council's satisfaction at their expense.
156. All waste and recycling containers shall be stored in the designated waste storage area. The waste containers are not to be over filled and the lids kept closed at all times except when material is being put in them. The building owner shall be responsible for the following:
- a) Where waste and recycling containers need to be moved to the street;
 - b) Movement of the waste and recycling containers to the footpath for collections, and the return of waste and recycling containers to the waste storage area;
 - c) Refuse containers are to be returned to the waste storage area on the same day as the refuse is collected;
 - d) Cleaning and maintaining the waste storage area, any drainage installations and waste collection containers; and
 - e) Providing and maintaining signage and information to uses to encourage recycling.
- 157.
- a) (i) The hours of operation for the commercial tenancies located on the ground floor shall be restricted to 8am- 7pm Monday to Saturday.
(ii) No work on Sundays or public holidays.
 - b) The collection of garbage and any delivery of goods associated with the commercial tenancies shall be limited 8am-7pm Monday to Saturday.
158. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 13/208 dated 1 April 2015, *as modified by DA-13/208/2, lodged with Council on 28 August 2015, and DA-13/208/4, lodged with Council on 13 May 2016, and DA-13/208/3, lodged with Council on 18 April 2016, and DA 13/208/5, lodged with Council on 6 September 2016, and DA-13/208/6, lodged with Council on 11 November 2016*, and that any alteration, variation, or extension to the use, for which approval has been given, would require further consent from Council.
- (Condition Amended DA-13/208/02) (Condition Amended DA-13/208/04) (Condition Amended DA-13/208/03) (Condition Amended DA-13/208/05) (Condition Amended DA-13/208/06)*

ADVISORY NOTE

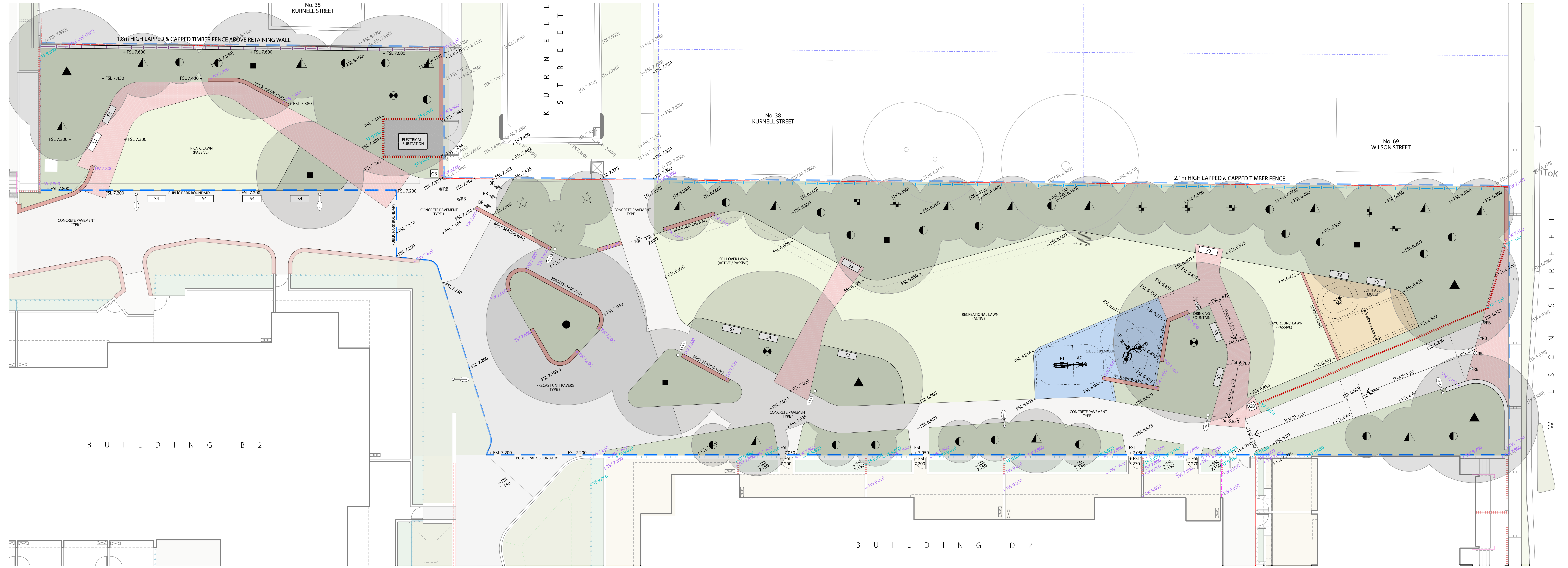
The following conditions are imposed by the NSW Police Service:

- (a) As the proposed development may be exposed to Break and Enter Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS:4806:2006 shall to be implemented to receive, hold or process data for the identification of people involved in anti-social behaviour prior to the issue of the Occupation Certificate. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation;
- (b) The CCTV system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas that are difficult to supervise. Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas. One or more cameras should be strategically mounted at entry and exit points to monitor activities around these areas (underground car park, foyer entrance);
- (c) Any proposed landscaping and vegetation should adhere to the following principles:
 - (i) Shrubs bushes, plants should remain under 900mm in height;
 - (ii) Branches or large trees should start at a height of two (2) metres and higher;

This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.
- (d) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime;
- (e) Any storage cages in the underground car park areas should not be constructed in an isolated area. CCTV cameras must cover this area, as they are easy targets when they have little supervision. Solid steel housing and quality key locks should be used to prevent access.

Visitor Parking

- a) Residents are not eligible to participate in on-street resident parking schemes.



PUBLIC PARK
DETAIL LANDSCAPE PLAN

LEGEND

- As - Acmena smithii var. Minor - Dwarf Lilly Pilly
Size at Maturity: 4m high x 2m wide
Pot Size: 200L
- Ac - Angophora costata - Smooth-barked Apple
Size at Maturity: 15m high x 12m wide
Pot Size: 400L
- Bi - Banksia integrifolia - Coastal Banksia
Size at Maturity: 10m high x 4m wide
Pot Size: 200L
- Bs - Banksia serrata - Old Man Banksia
Size at Maturity: 12m high x 6m wide
Pot Size: 200L
- Em - Eucalyptus maculata - Spotted Gum
Size at Maturity: 25m high x 10m wide
Pot Size: 400L
- Es - Eucalyptus scoparia - Wallangara White Gum
Size at Maturity: 8-12m high x 5-10m wide
Pot Size: 400L
- Fr - Ficus rubiginosa - Port Jackson Fig
Size at Maturity: 15-20m high x 15-20m wide
Pot Size: 400L
- MI - Melaleuca linearifolia - Narrow-leaved paperbark
Size at Maturity: 8m high x 5m wide
Pot Size: 200L
- TI - Tristanopsis laurina 'Luscious' - Water Gum
Size at Maturity: 12m high x 5m wide
Pot Size: 200L

SURFACE MATERIALS

- Garden Bed
Mass Planting to future detail
- Concrete Pavement Type 1
Pepper Tree Mix in situ concrete with
lightly washed finish
- Pre-cast unit pavers Type 3
Pre-cast unit pavers, colour: charcoal,
mixed of honed and standard finish
- Recycled Dry Pressed Bricks (Wollongong blend)
laid on side in stretcher bond.
- Soft - Leaf Buffalo Lawn
- TPV Rubber Wetpour Softfall
Allow variety of colours.
Design TBC
- Mulch Softfall
Australian Native Landscapes
Hort - Bark, or approved equivalent
- Recycled Dry Pressed Brick (Wollongong blend)
Seating Wall (typical 500mm high)
- Lapped and Capped Timber Fence
1.8m High
Hardwood Timber, Colour: Charcoal
- Lapped and Capped Timber Fence
2.1m High
Hardwood Timber, Colour: Charcoal
- Aluminium Fence Panel - Flat Bar
- Public Space Lighting
Pole Mounted Luminaire - Iguzzini Lavina
side attachment
Height of lamp: 5m
Height of pole: 6m
- * Final luminaire type and pole location
to lighting consultants detail.

FITNESS EQUIPMENT

AEROBIC EQUIPMENT

- Product Name: a_space
Aerobic Cycle
Product Code: FFP60
Fall Zone: 9.3m2
- Product Name: a_space Elliptical
Trainer
Product Code: FFP6011
Fall Zone: 11.4m2

STRENGTH EQUIPMENT

- Product Name: a_space Leg
Press
Product Code: FFP6009
Fall Zone: 10.0m2
- Product Name: a_space Chest
Press
Product Code: FFP6006
Fall Zone: 8.8m2
- Product Name: a_space Pull
Downs
Product Code: FFP6008
Fall Zone: 9.9m2

FURNITURE

- Product Name: Valetta Seat
Product Code: EM078
Supplier: Emerdyn, Botany Bay
Council series
- Product Name: Valetta Seat
Product Code: EM078
Supplier: Emerdyn, Botany Bay
Council series
- Product Name: Regal Bollard
Range with Bronze motif
(Removable and Fixed)
Product Code: 150F, 150R
Supplier: Securapost Aust.
(Leda Security)
- Product Name: Avalon Sulo
Enclosure
Product Code: EM227
Supplier: Emerdyn, Botany Bay
Council series
- Product Name: Bicycle Rack
'Spiral Hoop'
Product Code: BST04
Supplier: Street Furniture
Australia (SFA)
- Product Name: Arqua Fountain
with Dog Bubbler
Product Code: DF4-DB
Supplier: Street Furniture
Australia (SFA)

FENCING

- Fence Type Lapped Capped
Fence
Type 1: 1.8 m
Type 2: 2.1 m
Material: Hardwood Timber
- Fence Type: Aluminium Fence
Panel - Flat Bar
Material: Aluminium

PLAYGROUND EQUIPMENT

- Product Name: Motorcycle
Spring Rider
Product Code: R - 8034-13
Equipment Dimensions: W 0.3m
x L 0.8m x H 0.7m
- Product Name: Compact
Double Swing
Product Code: S - 8788
Equipment Dimensions: W 0.6m
x L 3.44m x H 2.51m

EQUIPMENT AND FENCE SCHEDULE

Playground/Fitness Item	Model Number	Supplier	Fall Zone	Quantity	Notes
Motorcycle Spring Rider	R-8034-13	Moduplay	max 1000mm	1	0.3 x 0.8 x 0.7 m
Compact Double Swing	S - 8788	Moduplay	max 1300mm	1	0.6 x 3.44 x 2.51
Elliptical Trainer	FFP6011	a_space	400mm	1	3435 x 3605 mm
Pull Downs	FFP6008	a_space	590 mm	1	2590 X 3795 mm
Aerobic Cycles	FFP6001	a_space	1960 mm	1	2825 X 3685 mm
Leg Press	FFP6009	a_space	1960 mm	1	3050 X 3625 mm
Chest Press	FFP6006	a_space	1960 mm	1	2590 X 3780 mm
Fence Type	Description	Material	Colour	Finish	Total Length/Quantity
Aluminium Fence Panel - Flat Bar	Aluminium rectangular hollow extrusion to top, base and side to form frame.	Aluminium	Dark Bronze Flat 9068184K	Aluminium powder coated	40 m
Lapped Capped Fence	Treated hardwood lapped capped fence 1.8 m	Hardwood Timber	Charcoal	Dulux weathershield matt acrylic	37 m
Lapped Capped Fence	Treated hardwood lapped capped fence 2.1 m	Hardwood Timber	Charcoal	Dulux weathershield matt acrylic	79 m

FURNITURE SCHEDULE

Item Number	Item Description	Product Number	Supplier	Material	Colour	Finish	Mounting	Dimension	Quantity
S3	Seat Type 3 - Valetta Seat with Backrest and Botany Bay Council logo laser cut into frame	EM078	Emerdyn	Hardwood Timber	Blaze Blue	Powder coat colour finish	Surface mounted in accordance with manufacturers recommendation	1800x520x430mm	11
S4	Seat Type 4 - Valetta Bench with Botany Bay Council logo laser cut into frame	EM077	Emerdyn	Hardwood Timber	Blaze Blue	Powder coat colour finish	Surface mounted in accordance with manufacturers recommendation	1800x520x430mm	4
FB	Fixed Bollard - Regal Bollard Range with Botany Bay Council logo as bronze motif	150F	Securapost Australia (Leda Security)	Stainless Steel - Linished	Stainless Steel	Matt bead blasted	Removable in-ground fixing in accordance with manufacturers recommendation	Ø 250 x 900 x 1300	1
RB	Removable Bollard - Regal Bollard Range with Botany Bay Council logo as bronze motif	150R	Securapost Australia (Leda Security)	Stainless Steel - Linished	Stainless Steel	Matt bead blasted	Removable in-ground fixing in accordance with manufacturers recommendation	Ø 250 x 900 x 1200	6
GB	Garbage Bin (120L Bin Enclosure) 'Avalon Sulo Enclosure'	EM227	Emerdyn	Hardwood Timber	Black Gloss with Redwood Stainless Steel hood	Powder coat colour finish	Surface Mounted	700x800x1170	2
BR	Bicycle Rack 'Spiral Hoop'	BST04	SFA	Stainless steel 316	N/A	Linished	Subsurface mounted in accordance with manufacturers recommendation	725x370x850mm	3
DF	Drinking Fountain 'Arqua Fountain with Dog Bubbler'	DF4-DB	SFA	Stainless steel 316	N/A	Electropolished	Installed in accordance with manufacturers recommendation	Ø 450 x 770 x 1125mm	1

NOTE: ALLOW REINFORCED INSITU CONCRETE SLAB TO S3 AND GB ITEMS IN GARDEN BED. FINISH AND TYPE TO MATCH CONCRETE PAVEMENT TYPE 1

PUBLIC PARK
EQUIPMENT, FURNITURE AND MATERIALS PALETTE

LOTS 22,23,24,25,28 ARE STRATUM LOTS AND WHERE SITUATED ON THE GROUND FLOOR CONCRETE SLAB ARE LIMITED IN DEPTH TO THE CENTRE OF THE CONCRETE SLABS THAT FORM THE FLOORS AND UNLIMITED IN HEIGHT.

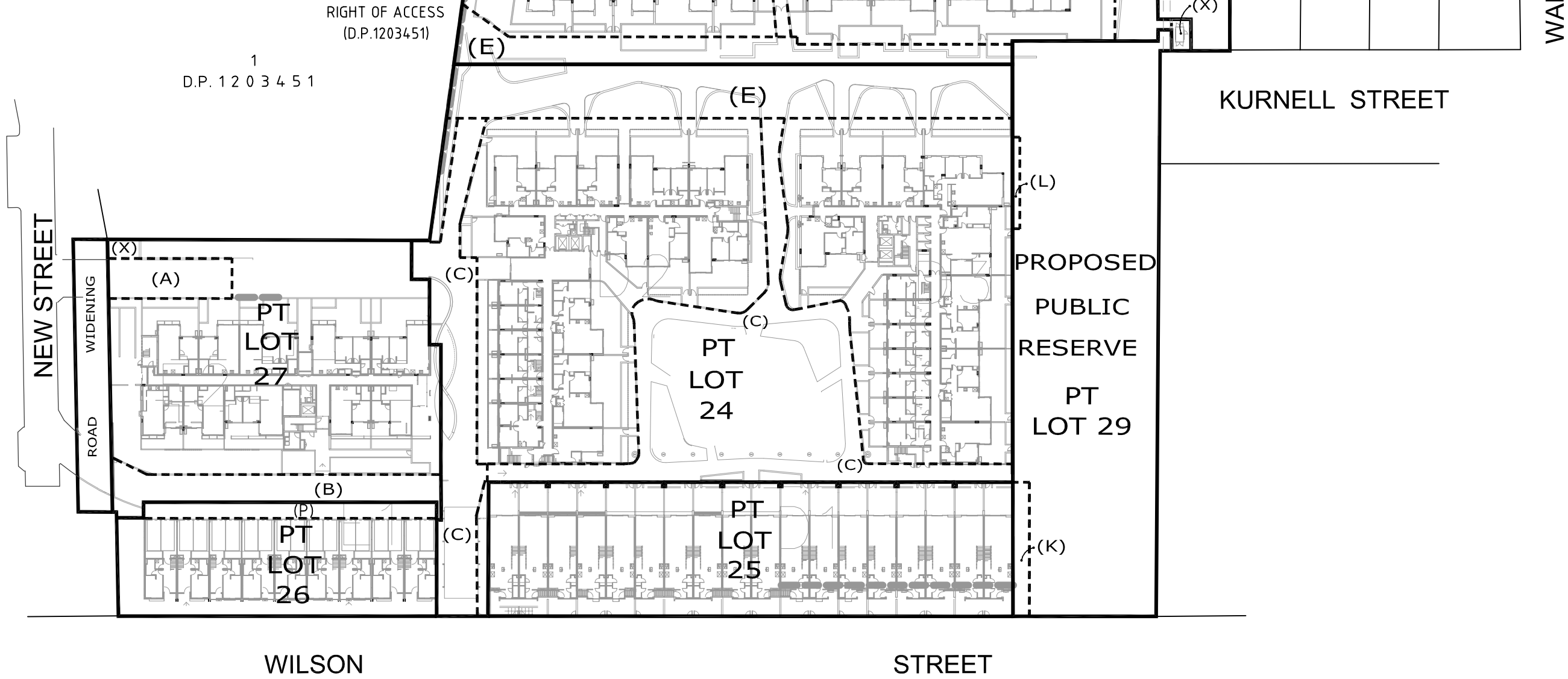
THAT PART OF LOTS 22 & 25 NOT LOCATED ON THE GROUND FLOOR SLAB ARE LIMITED IN DEPTH TO 1 METRE BELOW THE UPPER SURFACE OF THE FLOOR SLAB

LOT 21 IS UNLIMITED IN HEIGHT AND DEPTH EXCEPT THAT PART ABOVE THE BASEMENT WHICH IS LIMITED IN DEPTH TO THE CENTRE OF THE CONCRETE SLAB THAT FORMS THE CEILING OF THE BASEMENT

LOT 26 IS UNLIMITED IN HEIGHT AND DEPTH EXCEPT THAT PART (P) ABOVE THE DRIVEWAY WHICH IS LIMITED IN DEPTH TO THE UNDERSIDE OF THE CONCRETE SLAB THAT FORMS THE FLOOR OF THE FIRST FLOOR

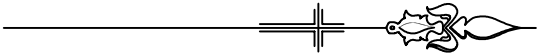
LOT 27 IS UNLIMITED IN HEIGHT AND DEPTH EXCEPT THAT PART (P) BELOW FIRST FLOOR OVERHANG OF LOT 26 WHICH IS LIMITED IN HEIGHT TO THE CONCRETE SLAB THAT FORMS THE FLOOR OF THE FIRST FLOOR

STRATUM BOUNDARIES WILL IN GENERAL RELATE TO THE CENTRE OF THE CONCRETE FLOOR SLABS. THE WALLS OF THE TERRACE BUILDINGS WILL STAND WITHIN THEIR RESPECTIVE LOTS ON GROUND LEVEL



DRAFT SUBDIVISION PLAN

STAGE 1 - STAGING STRATUM



LOT 29 IS PROPOSED PUBLIC RESERVE

- EASEMENT FOR SUPPORT AND SHELTER (WHOLE OF LOT)
- EASEMENT FOR SERVICES (WHOLE OF LOT)
- EASEMENT TO USE FIRE STAIRS AND PASSAGES (WHOLE OF LOT)
- (A) RIGHT OF CARRIAGEWAY VARIABLE WIDTH
- (B) RIGHT OF CARRIAGEWAY VARIABLE WIDTH
- (C) EASEMENT FOR ACCESS VARIABLE WIDTH
- (D) EASEMENT FOR ACCESS VARIABLE WIDTH LIMITED IN STRATUM
- (E) EASEMENT FOR PUBLIC ACCESS VARIABLE WIDTH
- (F) EASEMENT FOR FUTURE SERVICES LIMITED IN STRATUM
- (G) EASEMENT FOR ACCESS AND LOADING DOCK VARIABLE WIDTH
- (H) POSITIVE COVENANT
- (I) POSITIVE COVENANT
- (J) POSITIVE COVENANT
- (K) EASEMENT FOR FIRE SEPARATION 3 WIDE
- (L) EASEMENT FOR FIRE SEPARATION 2 WIDE

- (X) EASEMENT FOR ELECTRICITY PURPOSES (AUSGRID)
- (Z) EASEMENT TO DRAIN WATER (STORMWATER DIVERSION)

NOTE

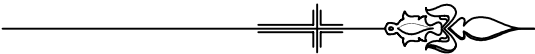
AREAS AND DIMENSIONS ARE SUBJECT TO FINAL SURVEY AFTER CONSTRUCTION AND REGISTRATION OF PLAN AT THE LAND AND PROPERTY INFORMATION OFFICE
SITES OF EASEMENTS ARE SUBJECT TO DESIGN AND CONSTRUCTION VARIATIONS

Surveyor: JAMES PATRICK THORPE	PLAN OF SUBDIVISION OF LOT 100 D.P.867427, LOT 101 D.P.867427, LOTS 1 - 5 D.P.979152 & LOT 51 D.P.15704	LGA: BOTANY BAY Locality: BOTANY Subdivision No:	Registered	DRAFT STAGING STRATUM REVISION B 11 JANUARY 2016
Date of Survey: 13/11/2015		Lengths are in metres. Reduction Ratio 1:800		Page 329
Surveyor's Ref: 18240_5				

BASEMENT & BELOW

DRAFT SUBDIVISION PLAN

STAGE 1 - STAGING STRATUM

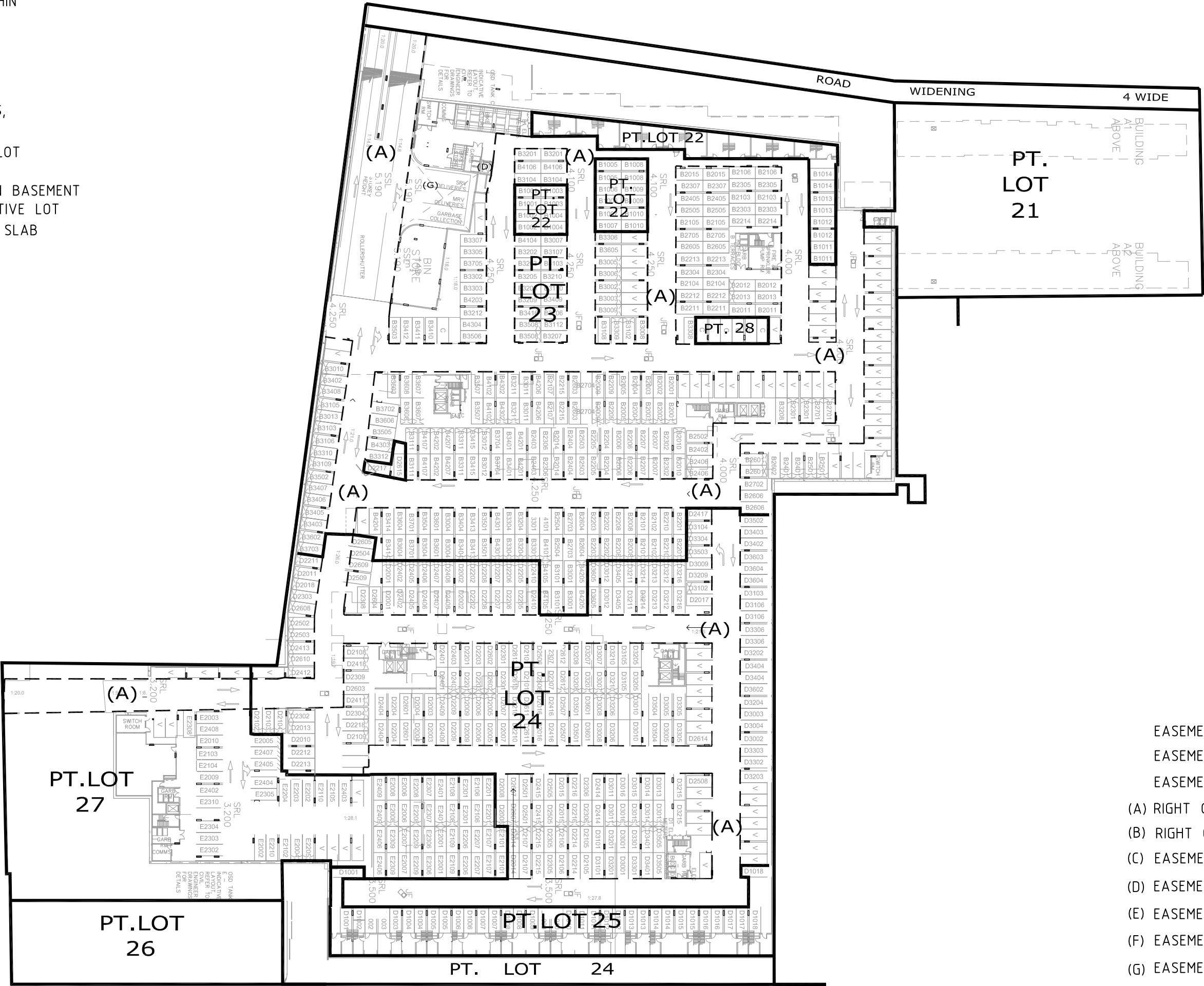


LOTS 23, 24, 26 27, 28 ARE STRATUM LOTS AND AT BASEMENT THEY ARE UNLIMITED IN DEPTH.

LOTS 21, 22, 25 ARE STRATUM LOTS AND WHERE LOCATED WITHIN THE BASEMENT STRUCTURE THEY ARE LIMITED IN DEPTH TO THE CENTRE OF THE CONCRETE FLOOR SLAB

STRATUM BOUNDARIES WILL IN GENERAL RELATE TO THE CENTRE OF THE CONCRETE FLOOR SLABS AND CENTRE OF WALLS, EXCEPT THAT THE PERIMETER WALL OF THE BASEMENT WHERE ADJACENT TO LOTS 22 & 25 DOES NOT FORM PART OF THAT LOT

EASEMENT FOR FUTURE SERVICES (F) BURDENS EACH LOT WITHIN BASEMENT AND IS LIMITED TO STRATUM BETWEEN UPPER LIMIT OF RESPECTIVE LOT AT BASEMENT AND 0.35 METRES BELOW THE BASEMENT CEILING SLAB



- EASEMENT FOR SUPPORT AND SHELTER (WHOLE OF LOT)
- EASEMENT FOR SERVICES (WHOLE OF LOT)
- EASEMENT TO USE FIRE STAIRS AND PASSAGES (WHOLE OF LOT)
- (A) RIGHT OF CARRIAGEWAY VARIABLE WIDTH
- (B) RIGHT OF CARRIAGEWAY VARIABLE WIDTH
- (C) EASEMENT FOR ACCESS VARIABLE WIDTH
- (D) EASEMENT FOR ACCESS VARIABLE WIDTH LIMITED IN STRATUM
- (E) EASEMENT FOR PUBLIC ACCESS VARIABLE WIDTH
- (F) EASEMENT FOR FUTURE SERVICES LIMITED IN STRATUM
- (G) EASEMENT FOR ACCESS AND LOADING DOCK VARIABLE WIDTH
- (H) POSITIVE COVENANT
- (I) POSITIVE COVENANT
- (J) POSITIVE COVENANT

NOTE

AREAS AND DIMENSIONS ARE SUBJECT TO FINAL SURVEY AFTER CONSTRUCTION AND REGISTRATION OF PLAN AT THE LAND AND PROPERTY INFORMATION OFFICE
SITES OF EASEMENTS ARE SUBJECT TO DESIGN AND CONSTRUCTION VARIATIONS

Surveyor: JAMES PATRICK THORPE	PLAN OF SUBDIVISION OF LOT 100 D.P.867427, LOT 101 D.P.867427, LOTS 1 - 5 D.P.979152 & LOT 51 D.P.15704	LGA: BOTANY BAY Locality: BOTANY Subdivision No:	Registered	DRAFT STAGING STRATUM REVISION B 11 JANUARY 2016
Date of Survey: 26.03.2015		Lengths are in metres. Reduction Ratio 1:800		
Surveyor's Ref: 18240_5				Page 330

Council Meeting

8/03/2017

Item No	9.9
Property	52-54 Pemberton Street Botany, Lots 1-5 DP 979152; Lot 51 DP 15704; Lot 100 DP 867427; Lot 1 DP 701262; Lot 101 DP 867427
Proposal	Section 96(1A) modification to DA-13/208, which approved a mixed use development. The proposed modification seeks for the relocation of the Wilson Street temporary access driveway, such that it would be provided over the Pocket Park extension area. The temporary access driveway is only required in the event that Mahroot Street is not dedicated to Council in a timely manner.
Cost of Development	\$181,294,482 (original proposal)
Report by	Brendon Clendenning – Acting Team Leader Development Assessment
Application No	DA-13/208/07

Council Resolution

It is recommended that Council:

- A. Resolve pursuant to Section 96(1A) of the Environmental Planning and Assessment Act, 1979, to modify Development Consent No. 13/208, for the mixed use development, at 52-54 Pemberton Street Botany, as follows:
- 1 Modify Condition 1 to refer to the amended staging plan.
 - 2 Modify Condition 7 to correct a minor error.
 - 3 Delete Condition 13 and replace with a new Condition 13, which enables the temporary driveway to be constructed in place of the Pocket Park extension.
 - 4 Modify Condition 117 to ensure that a Site Audit Statement is provided for the Pocket Park extension.
 - 5 Modify Condition 142 to ensure that the parks (including the Pocket Park extension) are remediated prior to the issue of any Occupation Certificate for Building B.
 - 6 Modify Condition 158 to make reference to this modification.
- B. Incorporate the changes proposed by DA-13/208/06 (if approved), in to a single determination notice.
- C. That the objectors be advised of Council's decision.
-

Officer Recommendation

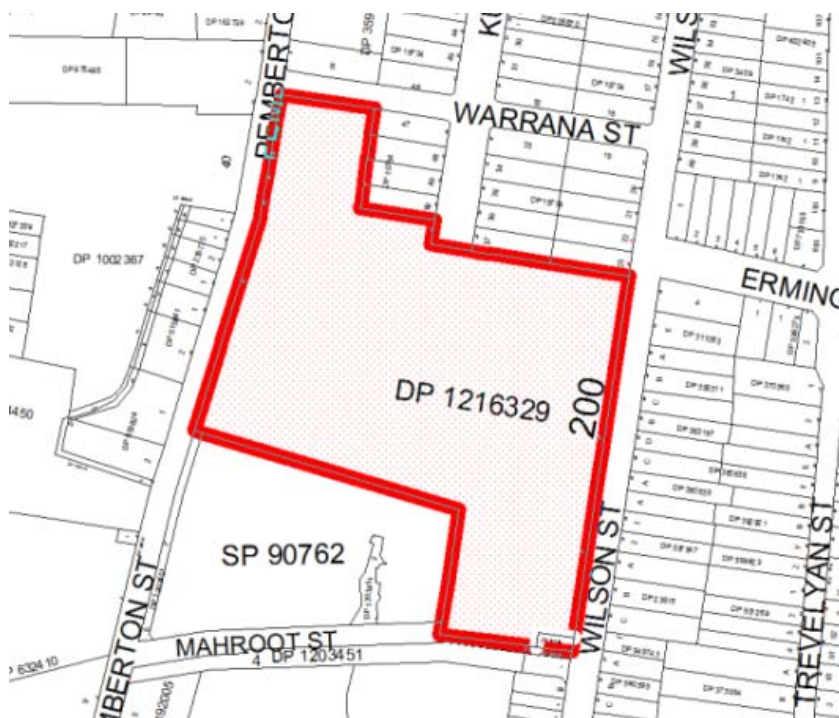
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- B. Incorporate the changes proposed by DA-13/208/06 (if approved), in to a single determination notice.
- C. That the objectors be advised of Council's decision.
-

Attachments

Planning Assessment Report
Modification of Consent

Location Plan



BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-13(208)/07
Date of Receipt:	1 December 2016
Property:	52-54 Pemberton Street Botany, Lots 1-5 DP 979152; Lot 51 DP 157 DP 867427; Lot 1 DP 701262; Lot 101 DP 867427
Owner:	Botany No 1 Pty Ltd
Applicant:	Frasers Property Australia
Proposal:	Section 96(1A) modification to DA-13/208, which approved a mixed use development. The proposed modification seeks for the relocation of the Mahroot Street temporary access driveway, such that it would be provided over the Park extension area. The temporary access driveway is only required if that Mahroot Street is not dedicated to Council in a timely manner.
Value:	\$181,294,482 (original proposal)
No. of submissions:	Fifteen (15) in opposition
Author:	Brendon Clendenning – Acting Team Leader Development Assessment
Date of Report:	11 January 2017

Key Issues

Development Application No.13/208 was granted consent by the Joint Regional Planning Panel (JRPP) on 15 July 2015. The approved development was for construction of four (4) buildings comprising 433 apartments and buildings ranging in height between three (3) to eight (8) storeys, basement car park and 3,000sqm of publicly accessible open space.

The Council recommended refusal of the development application, for reasons relating to the application's non-compliance with the building height standard under the Botany Bay LEP 2013 (BBLEP 2013) and non-compliance with the apartment sizes under the Botany Bay DCP 2013 (BBDCP 2013) and the Residential Flat Design Code (RFDC).

The JRPP requested that Council provide draft conditions of consent prior to the panel meeting on 15 July 2015, and at its public meeting, the JRPP resolved to grant consent to the development, subject to conditions.

The current modification application is the sixth modification lodged in relation to this development, and is under assessment concurrently with the fifth modification. The subject modification seeks to relocate the Wilson Street driveway, which may postpone the delivery of the Pocket Park (Mahroot Reserve) extension.

In accordance with Part 2 - Notification & Advertising of the Botany Bay Development Control Plan 2013, the Section 96(1A) Application was notified for a period of 21 days (extended due to public holidays) from 21 December 2016 to 11 January 2017. Fifteen submissions were received, which primarily relate to the presence of a driveway from Wilson Street.

This Section 96(1A) Modification Application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* and it is recommended that the conditions be modified to enable the amendments the relocation of the driveway, and to ensure that the land is remediated as required.

Recommendation

It is RECOMMENDED that Council:

- A. Resolve pursuant to Section 96(1A) of the Environmental Planning and Assessment Act, 1979, to modify Development Consent No. 13/208, for the mixed use development, at 52-54 Pemberton Street Botany, as follows:
 - 1. Modify Condition 1 to refer to the amended staging plan.
 - 2. Modify Condition 7 to correct a minor error.
 - 3. Delete Condition 13 and replace with a new Condition 13, which enables the temporary driveway to be constructed in place of the Pocket Park extension.
 - 4. Modify Condition 117 to ensure that a Site Audit Statement is provided for the Pocket Park extension.
 - 5. Modify Condition 142 to ensure that the parks (including the Pocket Park extension) are remediated prior to the issue of any Occupation Certificate for Building B.
 - 6. Modify Condition 158 to make reference to this modification.
- B. Incorporate the changes proposed by DA-13/208/06 (if approved), in to a single determination notice.
- C. That the objectors be advised of Council's decision.

Background

Description of Approved Development – DA-13/208

Development Application No.13/208 was granted consent by the JRPP on 15 July 2015 for the following:

- Excavation and site preparation works and construction of the site for residential purposes;
- Four (4) buildings containing a maximum Gross Floor Area (GFA) of 42,804sqm and Floor Space Ratio (FSR) of 0.96:1 in the B4 zone and 1.55:1 in the R3 zone, comprising a total of 433 apartments;
- Building heights between three (3) storeys to eight (8) storeys;
- Basement and ground level parking;
- 3,000sqm of publicly accessible open space;
- Pedestrian and cycle through-site links; and new vehicular access from Pemberton Street;
- The proposal also includes the dedication of land and stratum and Torrens Title subdivision.

The Council recommended refusal of the development application, for reasons relating to the non-compliance with the building height standard under the Botany Bay LEP 2013 (BBLEP 2013) and non-compliance with the apartment sizes under the Botany Bay DCP 2013 (BBDCP 2013) and the Residential Flat Design Code (RFDC).

The JRPP requested that Council provide draft conditions of consent prior to the panel meeting on 15 July 2015, and at its public meeting, the JRPP resolved to grant consent to the development, subject to conditions.

An earlier application, DA-14/239, for the demolition of all existing structures, minor excavation works and removal of trees, was also approved, and has since been modified to enable removal of further trees on Pemberton Street.

Previous Modifications

The first modification, DA-13/208/2 was determined on 27 April 2015. The modification made a number of changes to the consent conditions, including the addition of Condition 1B, which provided a table outlining the 'prior to CC' conditions that may be addressed for each separate CC.

The third modification application DA-13/208/4 (lodged after the lodgement of the second modification application, but determined before it) was lodged on 13 May 2016 and approved on 18 May 2016. This application sought changes to enable Section 94 contributions to be held by Council whilst the VPA is finalised, as well as other changes to conditions.

The second modification application, DA-13/208/3 was lodged on 18 April 2016 and included:

- Modifications to façades and the internal building configuration, resulting from the design development process;
- Modification to the south eastern boundary of the site;
- Dedication of land for public open space to the south of the site;
- Construction of an additional terrace on Wilson Street; and
- Vehicular access for the driveways on to New Street 1, including an alternative interim vehicular access for Building E until New Street 1 has been dedicated.

This modification was approved by the Joint Regional Planning Panel on 20 July 2016. The Panel's decision included the deletion of conditions recommended by Council to restrict access to Mahroot Street. This modification is discussed further in this report.

The fourth modification, DA-13/208/5, was approved on 6 September 2016 and included minor changes to correct errors within the consent, including reference to the correct subdivision plan.

As well as the subject application, DA-13/208/6, lodged on 11 November 2016, is currently under assessment. This modification seeks to delete Condition 55 from the development consent, and to make reference within the development consent to the latest landscape plan.

Relevance of Previous Modifications to Current Proposal

The original application, approved by the JRPP on 15 July 2015 sought four vehicular access points as follows:

- Off Pemberton Street, with access to the entire underground carpark.
- Off Mahroot Street, with access to the entire underground carpark.
- Off Mahroot Street, with access only to the Building E terraces fronting Wilson Street.
- Off Warrana Street, with access only to the terraces at the northwestern end of the site.

However, at the time of determination, part of Mahroot Street was not owned by Council, but still owned by the developer undertaking development in the southern part of the Parkgrove Precinct (Toplace), on the opposite side of Mahroot Street. The applicant was not able to obtain the consent of the owners of that property, and the JRPP imposed the following additional condition (showing amendments by DA-13/208/02):

13. *While Building E **and the townhouses are is** approved, two of the proposed townhouses shall not be constructed, to provide alternate vehicular access to those dwellings from Wilson Street. When alternate dedicated public access is available from the proposed 'New Street', this matter may be re-visited. Amended plans in accordance with this condition are to be provided to the Director, City Planning & Environment, prior to the issue of a Construction Certificate.*

(Condition Amended DA-13/208/02)

As part of DA-13/208/3, the applicant sought a modified condition which would enable the development to be undertaken in stages, with wording suggested by the applicant's solicitors and agreed to by Council's solicitors. The temporary vehicular access would be provided in place of a new terrace which would form Stage 2, with all other development, including the previously deleted terraces, included as Stage 1. The condition was modified to read as follows;

- ~~13. While Building E and the townhouses are to be separated into 2 development stages. Development Stage 1 must provide for all vehicular access to Building E is approved, two of the proposed townhouses shall not be constructed, to provide alternate vehicular access to those dwellings from Wilson Street in accordance with DA-1110_E – Stage 1. Development Stage 2 may be constructed in accordance with DA- 1110_E – Stage 2, involving erection of an additional townhouse, provision of vehicular access points to~~

Building E and the basement from Mahroot Street after the date on which either ~~When~~ alternate dedicated public access is available from the ~~proposed 'New Mahroot Street'~~ or registration of a right of way over Lot 4 in DP 1203451 benefitting the Site so as to allow vehicular access via Mahroot Street., this matter may be re-visited. Amended plans in accordance with this condition are to be provided to the Director, City Planning & Environment, prior to the issue of a Construction Certificate.

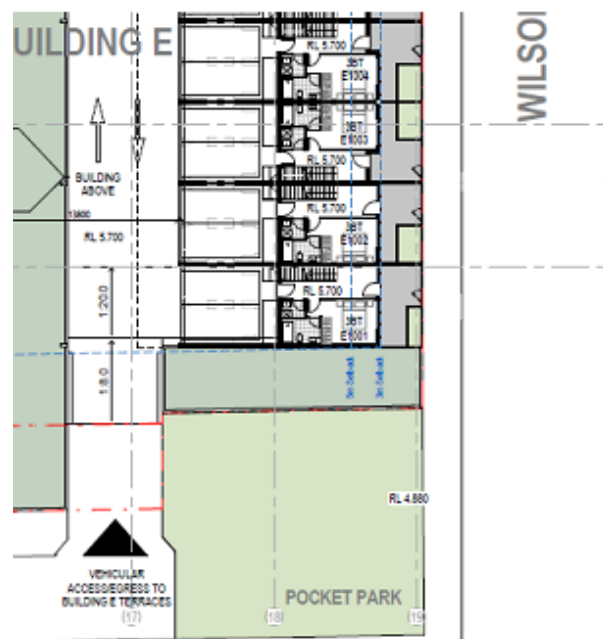
(Condition Amended DA-13/208/02) (Condition Amended DA-13/208/03)

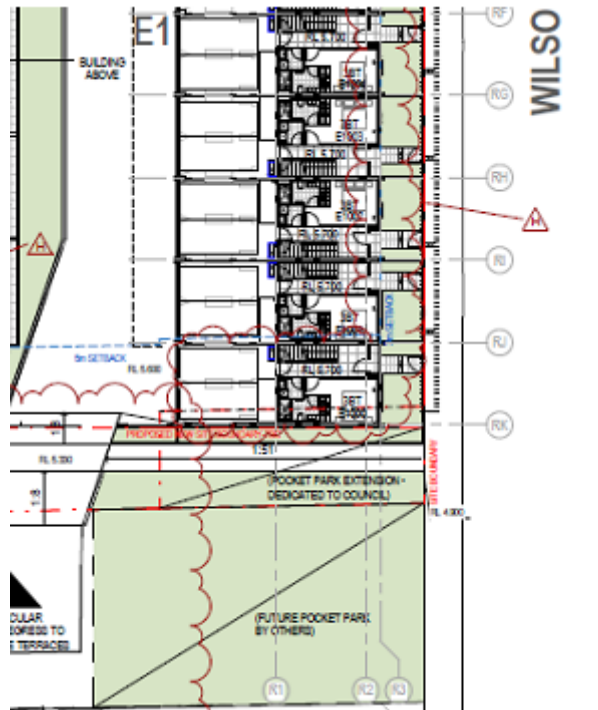
As part of this application, and in order to minimise traffic impacts on Mahroot Street, Council had sought for access to the basement carpark from Mahroot Street to be restricted such that only vehicles associated with 30% of the dwellings within the development would be able to utilise the Mahroot Street access (noting that a more prominent access was available off Pemberton Street). The JRPP did not agree to the relevant conditions recommended by Council, and Stage 2 of the development allows for all users of the basement carpark to gain access from both Pemberton Street and Mahroot Street.

In summary, modifications made by DA -13/208/03, which are relevant to the subject application include:

- A reduction in the width of the temporary driveway off Wilson Street (noting that the driveway only serves the terraces),
- Inclusion of a former Ausgrid site at 45 Wilson Street within the development site.
- Staging of the development, such that the new Stage 2 enabled the construction of an additional terrace dwelling at the southern end of Wilson Street, the associated deletion of the driveway off Wilson Street, and the use of the driveway to the basement off Mahroot Street. Stage 2 can only be realised once Mahroot Street is dedicated to Council.

The images below show the approved changes within the south-eastern corner of the site. The separate access from Mahroot Street is further to the west, and is not shown in these images.





Description of the Proposed S96 Modifications

The Statement of Environmental Effects submitted with the application describes the proposed modification application as follows:

"Mahroot Street (New Street) is an east-west street constructed as part of the TopPlace development to the south of the subject site. It provides vehicular access to the Parkgrove One and Parkgrove Two development sites. Development consent DA 13/208 included vehicular access from Mahroot Street to the individual on grade parking spaces of the terrace dwellings fronting Wilson Street (Building E).

Mahroot Street was constructed as part of the Parkgrove developments and is currently still owned by TopPlace. It is to be dedicated to Council in accordance with DA 12/195 issued by Council on 17 July 2013. Delays in the dedication of the street to Council has resulted in the street not being available for the Tailor's Walk development in the timeframe that was originally intended.

The purchase of the Ausgrid site at 45 Wilson Street by Frasers facilitated the approval of an additional terrace dwelling along Wilson Street via a Section 96 application (13/208/03) on July 2015. This application also included an alternative driveway from Wilson Street, in place of the additional terrace, which could be used temporarily until public access along Mahroot Street was provided (refer to Figure 1).

Due to ongoing delays with the dedication of Mahroot Street it is proposed to move the temporary driveway access to avoid further delays to the construction program of the terrace dwellings. The proposed temporary access will be immediately to the south of the currently

approved temporary access, on land that will be developed as a new pocket park upon completion of the development”.

It should be noted that there are several conditions of different consents that require Toplace to dedicate Mahroot Street to Council. Council is currently pursuing Class 4 Action in the Land and Environment Court, requiring the dedication of the southern portion of Mahroot Street, which is still owned by Toplace. Council’s legal representatives advised Council on 20 January 2017 that Toplace would be defending the proceedings and that Council is required to serve evidence by 24 February 2017.

In essence, the proposal seeks to modify the consent such that whilst Mahroot Street remains partially owned by Toplace, it will be the Pocket Park extension that will be delayed, rather the construction of the terrace at the south-corner of the site. However, for clarity the following table considers the long term impact of this modification, having regard for the possibility that the Court may find in favour of Toplace, and the road may remain owned by Toplace.

	The existing consent	The consent as proposed to be modified
If Mahroot Street is dedicated to Council	The Wilson Street driveway will be deleted; the additional terrace and the pocket park extension will both be provided.	The Wilson Street driveway will be deleted; the additional terrace and the pocket park extension will both be provided.
If Toplace continue to own Mahroot Street	The Wilson Street driveway will remain; the additional terrace will be deleted, and the pocket park extension will be provided.	The Wilson Street driveway will remain; the pocket park extension will be deleted, and the additional terrace will be provided.

The proposal seeks to delete Condition 13 and replace it with the following new Condition 13:

Alternative temporary vehicular access to Building E from Wilson Street in accordance with DA-1110_E Rev I – Stage 1 is approved. The Stage 1 temporary access must be removed and the land redeveloped in accordance with DA-1110_E Rev I – Stage 2 within four (4) months of either alternate dedicated public access being available from Mahroot Street or registration of a right of way over Lot 4 in DP 1203451 benefitting the Site so as to allow vehicular access via Mahroot Street.

Prior to the issue of the relevant Construction Certificate the applicant shall lodge with Council a bond [value to be determined by Council and developer] against the pocket park works. The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee, which will be refundable upon completion of the Stage 2 access works, as per DA- 1110_E Rev I – Stage 2.

Note: Council considers that this bond should equate to \$100,000 and be paid prior to the issue of the first Occupation Certificate for above ground works.

Site Description

The legal description of the allotments to which this development application relates (the site) is described below. The site is zoned part B4 – Mixed Use (8,058.5 sqm²), part R2 – Low Density Residential (one lot of 456 sqm) and part R3 (22,565 sqm) – Medium Density Residential.

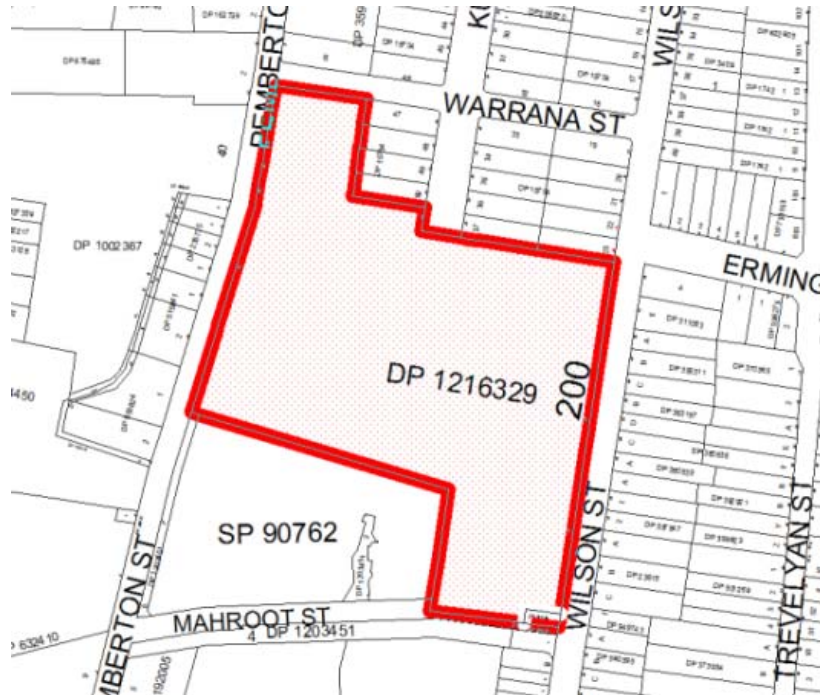


Figure 1 Locality Plan

The combined area of the development site is 31,202.1 sqm and is defined by Pemberton Street to the west (190 metres), Wilson Street to the east (195 metres), the Mahroot Street (68 metres) and the 42-44 Pemberton Street development to the south. To the north of the site is a short section of Warrana Street (40 metres) including a series of residential properties in Kurnell Street.

Referrals

Internal Referrals

The modification application was referred to Council's Development Engineer, who indicated that the proposal may be supported subject to the provision of barriers to prevent access to the basement car park from Mahroot Street. However, as the modification does not relate specifically to this element, it is not considered that such a change is appropriate.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

Section 96 Provisions

Pursuant to Section 96(1A) of the *Environmental Planning and Assessment Act 1979*, Council may only modify this consent if:

- a) It is satisfied that the proposed modification is of minimal environmental impact, and
- b) It is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and
- c) It has notified the proposal in accordance with the regulations, if they so require, or in accordance with the BBDCP 2013
- d) It has considered any submissions made concerning the proposed modification within the period prescribed by the regulations.

The proposed Section 96(1A) Application, seeking relocation of the approved driveway generates minor impacts, in the context of the approved development. The development as modified will be substantially the same development as was originally approved.

In accordance with Part 2 - Notification & Advertising of the Botany Bay Development Control Plan 2013, the Section 96(1A) Application was notified for a period of 21 days (extended due to public holidays) from 21 December 2016 to 11 January 2017, and the submissions have been considered elsewhere within this report.

Given the above, the proposed modifications satisfy the provisions of Section 96(1A) of the *Environmental Planning and Assessment Act 1979*.

Section 94 Contributions

Condition 4 of the consent currently requires that, in the event the VPA is not executed by both parties prior to the issue of a Construction Certificate for above ground works, developer contributions of \$7,830,000 are to be paid for the Stage 1 works, and that \$18,000 is to be paid for the Stage 2 works, being the final terrace. However, the condition states that no payment is required, given the offer made by the applicant to enter into a works in kind agreement for the turning area at the eastern end of Mahroot Street. Therefore, despite the proposed changes to the development staging, no changes are required to this condition.

S.79C(1) - Matters for Consideration – General

S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to the subject development

- State Environmental Planning Policy No. 55 – Contaminated Land
- State Environmental Planning Policy 2004 (BASIX);
- State Environmental Planning Policy No. 65 – Design Quality of Residential Flat buildings
- Botany Bay Local Environmental Plan 2013

The proposal amends the relevant conditions of consent, associated with the delivery of the Pocket Park (Mahroot Reserve) extension. Aside from, SEPP 55, the proposal does not require

a detailed consideration of any of the abovementioned Planning Instruments, and the granting of approval to the proposed modifications will not be inconsistent with the objectives of these instruments.

State Environmental Planning Policy No. 55 – Contaminated Land

The provisions of SEPP No. 55 had been considered in the assessment of the development application. Clause 7 of SEPP No. 55 requires Council to be certain that the site is or can be made suitable for its intended use at the time of determination of an application. Environmental investigations undertaken by the Applicant indicated that the site had been occupied by industrial uses since the 1930s.

The applicant previously submitted a Phase 1 and 2 Environmental and a Remedial Action Plan. The original application was referred to Council's Environmental Scientist who raised no objection to the proposal, subject to conditions.

A previous modification, DA-13/204/3, which incorporated the former Ausgrid substation site (which includes the location of the proposed Pocket Park extension) into the development site, was considered against SEPP 55. That modification was deemed to be satisfactory, as a Site Audit Statement had been provided indicating that the site, including the former Ausgrid land, was suitable for the proposed use. Modifications to conditions of consent are recommended to ensure that the Pocket Park extension is remediated prior to the issue of the Occupation Certificate for Building B (the largest stage, and likely to be the final stage) irrespective of whether the park has been completed.

Botany Bay Development Control Plan 2013

The Pocket Park as built is required by the Part 9C of the BBDCP 2013. However, the extension to the Pocket Park is not required by BBDCP 2013, but was provided as part of a previous modification which enabled the provision of the additional terrace. Therefore, the postponement of the delivery of the Pocket Park (Mahroot Reserve) extension is not contrary to the BBDCP 2013 and is considered to be acceptable. Further, matters related to parking and traffic are discussed in relation to the submissions. Aside from these issues, the proposed modifications do not raise any other relevant matters in relation to the BBDCP 2013.

S.79C(1)(a)(iv) - Provisions of Regulations

There are no additional considerations within the Regulations that are relevant to this modification.

S.79C(1)(b) - Likely Impacts of Development

It is considered that the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

S.79C(1)(c) - Suitability of the site

The proposed modification application does not affect the site itself and the suitability for development.

S.79C(1)(d) - Public Submissions

In accordance with Part 2 - Notification & Advertising of the Botany Bay Development Control Plan 2013, the Section 96(1A) Application was notified for a period of 21 days (extended due to public holidays) from 21 December 2016 to 11 January 2017. A total of 15 (pro-forma) objection letters were received, with the following concerns being raised:

The initial community consultation from the developer indicated that there was to be no traffic from Wilson Street. As a consequence, objections were not submitted to the original proposal.

Comment:

Condition 13, requiring the provision of a temporary driveway off Wilson Street, was not recommended by Council, but imposed by the JRPP. Council had originally recommended refusal of the application, and the applicant had not sought for a driveway to be provided from Wilson Street. However, it is acknowledged that this residents were not notified about this condition, prior to the determination of the original application.

Traffic impact increased traffic on Wilson Street. In addition to the general impacts on traffic to Wilson Street, the objections refer to an increased risk of accidents, noting the proximity to Banksmeadow Public School, and the impacts to parking on Wilson Street, due to the increase in traffic and the removal of parking spaces associated with the driveway. The objections note that a residential parking scheme has been requested in the past, but that Council has determined that it was not necessary.

Comment:

As outlined within the table provided earlier within this report, this modification does not seek for the provision of the driveway off Wilson Street; this driveway already forms part of the approval, and is unlikely to be required if Toplace do not successfully defend the Class 4 action. The changes sought by this modification affect the delivery of the Pocket Park extension, and require that the temporary driveway (if needed) will be relocated to be in line with the location of the Pocket Park extension.

Council is currently reviewing the requests for a residential parking scheme on Wilson Street, and it is expecting that a decision will be made in the near future.

S.79C(1)(e) - Public interest

Granting approval to the proposed development will have no significant adverse impact on the public interest.

Conclusion

The Section 96 application, seeking to modify Development Consent No. 13/208 granted for a mixed use development at 52 Pemberton Street Botany seeks to relocate the Wilson Street driveway, which may cause the postponement of the delivery of the Pocket Park (Mahroot Reserve) extension. The proposal has been assessed in accordance with the relevant

requirements of the *Environmental Planning and Assessment Act 1979* and is recommended for approval.

It is recommended that the conditions be modified to enable the amendments to the staging plan that are sought, and to ensure that the land reserved for the Pocket Park extension is remediated prior to any Occupation Certificate for Building B, irrespective of whether the Pocket Park is constructed. In this regard, conditions of consent are as noted in the assessment report in **Attachment A**, and are recommended to be adopted.

Attachment

Schedule 1 – Conditions of Consent

RECOMMENDATION

It is RECOMMENDED that Council:

- A. Resolve pursuant to Section 96(1A) of the Environmental Planning and Assessment Act, 1979, to modify Development Consent No. 13/208, for the mixed use development, at 52-54 Pemberton Street Botany, as follows:
 - 1. Modify Condition 1 to refer to the amended staging plan.
 - 2. Modify Condition 7 to correct a minor error.
 - 3. Delete Condition 13 and replace with a new Condition 13, which enables the temporary driveway to be constructed in place of the Pocket Park extension.
 - 4. Modify Condition 117 to ensure that a Site Audit Statement is provided for the Pocket Park extension.
 - 5. Modify Condition 142 to ensure that the parks (including the Pocket Park extension) are remediated prior to the issue of any Occupation Certificate for Building B.
 - 6. Modify Condition 158 to make reference to this modification.
- B. Incorporate the changes proposed by DA-13/208/06 (if approved), in to a single determination notice.
- C. That the objectors be advised of Council's decision.

Only the amendments to DA-13/208/07 are shown in the amended Schedule of Consent Conditions

Premises: 52-54 Pemberton Street Botany

DA No: 13/208/06

SCHEDULE OF CONDITIONS

GENERAL CONDITIONS

1. The development is to be in accordance with the following plans and endorsed with Council's stamp, except where amended by other conditions of this consent. Reference documentation is also listed.

~~Note: No approval is given for access to the basement car park off New Street One as no owners consent was not provided to allow this. In accordance with Condition 13, the consent authority allowed access to the Townhouses via Wilson Street by way of deletion of two townhouses.~~

Drawing No.	Author	Dated
DA-1110_E, Staging Diagrams – New Street, Issue F I	Group GSA	4 July 2016
DA-2000_0, B1 Basement Plan Overall, Issue G M	Group GSA	1 April 2015 13 April 2016
DA-2000_1, B1 Basement Plan – NV Quadrant, Issue G K	Group GSA	1 April 2015 13 April 2016
DA-2000_2, B1 Basement Plan – NE Quadrant, Issue G L	Group GSA	1 April 2015 14 April 2016
DA-2000_3, B1 Basement Plan – SE Quadrant, Issue G M	Group GSA	1 April 2015 14 April 2016
DA-2000_4, B1 Basement Plan – SW Quadrant, Issue G K	Group GSA	1 April 2015 13 April 2016
DA-2001, Ground floor plan – overall, Issue E K	Group GSA	1 April 2015 4 July 2016
DA-2001_A, Ground floor plan – Building A, Issue E I	Group GSA	1 April 2015 11 March 2016

DA-2001_B, Ground floor plan – Building B, Issue E J	Group GSA	1 April 2015 3 July 2016
DA-2001_D, Ground floor plan – Building D, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2001_E, Ground floor plan – Building E, Issue E P	Group GSA	1 April 2015 4 July 2016
DA-2002, Level 01 plan – overall, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2002_A, Level 01 plan – Building A, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2002_B, Level 01 plan – Building B, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2002_D, Level 01 plan – Building D, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2002_E, Level 01 plan – Building E, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2003, Level 02 plan – overall, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2003_A, Level 02 plan – Building A, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2003_B, Level 02 plan – Building B, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2003_D, Level 02 plan – Building D, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2003_E, Level 02 plan – Building E, Issue E H	Group GSA	1 April 2015

		11 March 2016
DA-2004, Level 03 plan – Overall, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2004_B, Level 03 plan – Building B, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2004_D, Level 03 plan – Building D, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2004_E, Level 03 plan – Building E, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2005, Level 04 plan – overall, Issue D I	Group GSA	1 April 2015 13 April 2016
DA-2005_B, Level 04 plan – Building B, Issue E I	Group GSA	1 April 2015 13 April 2016
DA-2005_D, Level 04 plan – Building D, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2005_E, Level 04 plan – Building E, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2006, Level 05 plan – overall, Issue D I	Group GSA	1 April 2015 13 April 2016
DA-2006_B, Level 05 plan – Building B, Issue E I	Group GSA	1 April 2015 13 April 2016
DA-2006_D, Level 05 plan – Building D, Issue E I	Group GSA	1 April 2015 11 March 2016
DA-2007, Level 06 plan – overall plan, Issue D I	Group GSA	1 April 2015 13 April 2016

DA-2007_B, Level 06 plan – Building B, Issue E I	Group GSA	1 April 2015 13 April 2016
DA-2007_D, Level 06 plan – Building D, Issue E J	Group GSA	1 April 2015 11 March 2016
DA-2008, Level 07 plan – overall plan, Issue D I	Group GSA	1 April 2015 13 April 2016
DA-2008_B, Level 07 plan – Building B, Issue E I	Group GSA	1 April 2015 13 April 2016
DA-2009, Roof plan – overall, Issue E I	Group GSA	1 April 2015 13 April 2016
DA-2009_A, Roof plan – Building A, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2009_B, Roof plan – Building B, Issue E I	Group GSA	1 April 2015 13 April 2016
DA-2009_D, Roof plan – Building D, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-2009_E, Roof plan – Building E, Issue E H	Group GSA	1 April 2015 11 March 2016
DA-3000, Street elevations – 1-500, Issue E J	Group GSA	1 April 2015 13 April 2016
DA-3000_A, Street elevations – 1-500– Sheet 2, Issue B E	Group GSA	1 April 2015 11 March 2016
DA-3001, Elevations Sheet 1, Issue D G	Group GSA	1 April 2015 11 March 2016
DA-3002, Elevations Sheet 2, Issue D H	Group GSA	1 April 2015

		<i>13 April 2016</i>
DA-3003, Elevations Sheet 3, Issue D G	Group GSA	1 April 2015 11 March 2016
DA-3004, Elevations Sheet 4, Issue D G	Group GSA	1 April 2015 11 March 2016
DA-3005, Elevations Sheet 5, Issue D G	Group GSA	1 April 2015 11 March 2016
DA-3100, Site Sections, Issue D H	Group GSA	1 April 2015 13 April 2016
DA-3101, Sections Sheet 1, Issue D H	Group GSA	1 April 2015 13 April 2016
DA-3102, Sections Sheet 2, Issue D G	Group GSA	1 April 2015 11 March 2016
DA-8200, External colours & Finishes Schedule, Issue B E	Group GSA	1 April 2015 11 March 2016
Reference: 18240-5 Sheet 1 of 1	Dunlop Thorpe & Co	26 March 2015 3 March 2016
Reference: 18240-6 Sheet 1 of 1	Dunlop Thorpe & Co	26 March 2015 3 March 2016
Reference: 18240-7 Sheet 1 of 1	Dunlop Thorpe & Co	26 March 2015 3 March 2016
Reference: 18240-4 18240_5 18240_2_5 (B) Sheet 1 of 2	Dunlop Thorpe & Co	26 March 2015 11 January 2016 3 March 2016

Reference: 18240-4 18240_5 18240_2_5 (B) Sheet 2 of 2	Dunlop Thorpe & Co	26 March 2015 11 January 2016 3 March 2016
Kurnell Street Stormwater Diversion 341565-C-DR-SK0003 (Revision C)	-	25 June 2015

Reference Document(s)	Author	Dated
Statement of Environmental Effects	JBA Urban Planning	April 2015
Design Report / SEPP 65 Design Verification Statement	Group GSA	1 April 2015
Remediation Action Plan	DLA	November 2014
Subdivision Drawings	Dunlop Thorp Co	26 March 2015
Waste Management Plan	GHD	March 2015
BASIX Report	Efficient Living	19 March 2015 11 March 2016
Geotechnical Report	Douglas Partners	March 2015
Stormwater Management & Flooding Analysis Report	Mott McDonald	March 2015
Landscape Drawings and Statement Detail Plan Playground ,Rev B	Tract	1 April 2015 8 November 2016
Transport Assessment	Ason Group	1 April 2015
Housing Diversity Assessment	JBA Urban Planning	March 2015
Acoustic Report	Acoustic Logic	25 March 2015
Access Report	Brentnall Technical Solutions	1 April 2015
Wind Report	Windtech	31 March 2015

~~Note: No approval is given for access to the basement car park off New Street One~~

~~as no owners consent was provided to allow this. In accordance with Condition 13, the consent authority allowed access to the Townhouses via Wilson Street by way of deletion of two townhouses.~~

(Condition Amended DA-13/208/02)(Condition Amended DA-13/208/03) (Condition Amended DA-13/208/05) **(Condition Amended DA-13/208/07)**

- 1A. Despite any other condition in this consent, no conditions preclude the proponent from undertaking the approved stormwater diversion works and associated amendments to drainage easements.

Council releases its rights in relation to the existing drainage easements created by dealings Book 1517 No 745, Book 2640 No 50 and Book 2768 No 411. Council acknowledges that the new drainage system to be installed on the site as shown in the drawing provided by the applicant to Council titled 'Kurnell Street Stormwater Diversion' dated 26 June 2015 or any variation to the drawing agreed by Council (and the new easements to be registered in respect of the new drainage system) replaces and is in lieu of the existing drainage system and the rights conferred under the existing easements in respect of the upstream drainage demand from Kurnell Street. The applicant must register with any plan of subdivision that subdivides the land the subject of the existing easements, new drainage easements under the Conveyancing Act 1919 burdening the applicant's land on the site of the new drainage system and benefitting Council. The easements under Building A will be limited in stratum and have a width of 1.2m so as to encompass only the drainage system below the slab. The design of the public park will accommodate an overland flow path from Kurnell Street through to Wilson Street.

(New Condition added DA-13/208/02)

- 1B. Despite any other condition of this consent, to enable a ~~staged~~ construction staging, the following conditions may be satisfied in accordance with the table below:

CONSTRUCTION STAGE	CONDITIONS TO BE SATISFIED
Prior to the First Construction Certificate for any Above Ground Works	71
Prior to Construction Certificate for the Relevant Building	14, 15, 16, 44, 47, 48, 50, 57, 58, 59, 60, 64, 65, 76, 77, 78, 80, 81, 82, 83, 86, 89
Prior to the Issue of any Occupation Certificate for the Relevant Building	117, 119, 124, 125, 131, 141
Prior to the Issue of any Occupation Certificate for Building B	134, 139, 142, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158

Any condition not listed within the table above shall be satisfied as outlined in elsewhere within this consent.

(New Condition added DA-13/208/02) (Condition amended DA-13/208/03)

2. This Consent relates to land in Lot 1-5 DP 979152, Lot 51 in DP 15704, Lot 100 in DP 867427, ~~Lot 1 DP 701262~~ and Lot 101 in DP 867427, as such, building works must not encroach on to adjoining lands ~~or other public places apart from any approvals granted for the road widening and to Pemberton Street which is to be submitted as a civil road works application unless otherwise required by these conditions of consent.~~ (Condition Amended DA-13/208/02) (Condition Amended DA-13/208/03)

3. The applicant must, prior to the issue of Construction Certificate, pay the following fees:

- a) Development Control \$11,200.00

Note: The Footpath Deposit bond that would ordinarily apply has been required as a Condition on DA 14/239 for demolition and tree removal.

4. Planning Agreement

- a) Prior to the issue of any Construction Certificate *for above ground works*, in accordance with the letter of offer dated 26 June 2015, the landowner and Botany Bay City Council are to enter into a planning agreement under Section 93F of the Environmental Planning and Assessment Act 1979.
- b) The preparation of the Planning Agreement and the works subject to the Planning Agreement are to be at no cost to Council.
- c) *Should the planning agreement not have been executed by both parties prior to the issue of the construction certificate for above ground works, payment of development contributions should be made, in accordance with the City of Botany Bay Contributions Plan 2005 -2010, as follows:*

Development Stage 1

Residential: ~~\$7,794,000~~ \$7,830,000

Less employee credits: ~~\$30,227.54~~ \$35,693.16

Total Payable: ~~\$7,763,772.46~~ \$7,794,306.84

Development Stage 2 – \$18,000

However, no contributions are payable for Development Stage 2, in accordance with the offer to enter into a Works In ~~King~~ Kind Agreement for the turning area at the end of Mahroot Street.

The Section 94 Contribution fees are subject to annual review and the current

rates are applicable for the financial year in which your consent is granted. If you pay the contribution in a later financial year you will be required to pay the fee applicable at the time.

The contributions are to be paid prior to issue any construction certificate for above ground work.

- d) *Should c) above have occurred, then following the planning agreement being executed by both parties, Council will refund to the applicant any amount over and above that is payable under the planning agreement.*

*(Condition Amended DA-13/208/04) (Condition Amended DA-13/208/03)
(Condition Amended DA-13/208/05)*

5. The public park component of the development shall be maintained by the Applicant for a defects period twelve (12) months *after land dedication before handover to Council* and after final written approval of ~~its~~ *their* construction and fitout by Council, including all certifications of structural components and warranties. All liability for damage, theft, death and repair of ~~its~~ *their* components shall be borne by the Applicant. ~~A damage deposit or similar should be placed over this requirement. A defects bond shall be paid to Council, of 30% of the value of the cost of the park works, as advised in writing by Council.~~

The bond may be applied by Council to the establishment and maintenance of the ~~park~~ parks, during the 12 month period, in accordance with the approved ~~plan~~ plans and Council shall be entitled to recover any monies expended in excess of the bond in establishing, re-establishing, or maintaining the landscape in accordance with the approved ~~plan~~ plans.

(Condition Amended DA-13/208/02) (Condition Amended DA-13/208/03)

6. As a consequence of the development, the applicant is to provide traffic signals at the intersection of Pemberton Street and Botany Road. The applicant's contribution shall be ~~proportional to the traffic generated from the subject development in the Wilson/Pemberton Street Precinct, being \$380,677.00. The contribution is to be made prior to the issue of any Occupation Certificate.~~

This contribution is based on a costing at 30 June 2015 and may be indexed to reflect any changes in costings at the time that the payment is made.

Note:

The traffic lights amount attributable the developer is based on an apportionment factor of 56.64% and is based on an estimated yield for the Parkgrove West site, 16 Pemberton Street Botany of 280 units; and 56 units at the site at 42 – 44 Pemberton Street.

(Condition Amended DA-13/208/02)

7.

a) The applicant must, at no cost or expense to Council.

- i) dedicate a 4 metres wide strip of land for road widening purposes adjoining and for the full length of the site frontage to Pemberton Street. Detail layout shall be in accordance with Wilson/ Pemberton Street Precinct Part 9 of the Botany Bay Development Control Plan 2013;
- ii) dedicate and embellish the public park of a minimum 3000sqm to Botany Bay Council;
- iii) Provide a Right of Way (*footway*) for public access via the east-west and north-south through site links;
- iv) upgrade the public domain and Council footpath area *along the site boundaries* on Pemberton Street, Wilson Street and Warrana Street with new paving at the applicant's expense. All improvements shall be in accordance with Council's Landscaping and Engineering specifications and requirements,
- v) provide suitable street lighting ~~to a high decorative standard~~ to the street boundaries of the site, on the development side of the road so to provide safety and illumination for residents of the development, with such street lighting meeting the relevant electricity authority requirements;
- vi) existing above ground electricity and telecommunication cables in Pemberton Street adjoining the site to be located below ground, at the applicant's expense, by underground cables, together with the provision of appropriate street light standards, drainage (if any), kerb and gutter, footway, bicycle paths, landscaping, traffic signs, to the relevant Australian Standards and Codes of Practice; and,
- vii) All land dedication, road construction, kerb and gutter, drainage, street trees and associated works are to be completed prior to the issue of the Occupation Certificate for ~~the development~~ *Building B*.
- viii) *Dedicate and embellish the Pocket Park extension.*
- ix) *Complete the turning area at the eastern end of Mahroot Street.*

Note that particular items listed above are also included within the Planning Agreement referred to in Condition 4.

(Condition Amended DA-13/208/02) (Condition Amended DA-13/208/04)
(Condition Amended DA-13/208/03) (Condition Amended DA-13/208/07)

8. The consent given does not imply that works can commence until such time that:

- a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by:

- i) The consent authority; or,
 - ii) An accredited certifier; and,
- b) The person having the benefit of the development consent:
 - i) Has appointed a principal certifying authority; and
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - iii) The person having the benefit of the development consent has given at least 2 days notice to the Council of the persons intention to commence the erection of the building.

9.

- a) All building work must be carried out in accordance with the provisions of the Building Code of Australia.
- b) All plumbing stacks, vent pipes, stormwater downpipes and the like shall be kept within the building and suitably concealed from view;
- c) The basement of the building must be designed and built so that on completion, the basement is a “fully tanked” structure, i.e. it is designed and built to prevent the entry of ground water / ground moisture into the inner part of the basement;
- d) Air conditioning units must not be visible from any public place.

10. Pursuant to clause 97A(3) of the Environmental Planning & Assessment Regulation 2000, it is a condition of this development consent that all the commitments listed in the relevant BASIX Certificate No. ~~613844M~~ 613844M_02; ~~613873M~~ 613873M_02, and ~~613783M~~, 613783M_02 dated ~~30 March 2015~~ 11 March 2016, for the development are fulfilled and updated to reflect the amendments to the proposal.

Note: “relevant BASIX Certificate” means:

A BASIX Certificate that was applicable to the development when this development consent was granted (or, if the development consent is modified under section 96 of the Act, a BASIX Certificate that is applicable to the development when this development consent is modified); or

If a replacement BASIX Certificate accompanies any subsequent application for a construction certificate, the replacement BASIX Certificate.

BASIX Certificate has the meaning given to that term in the Environmental Planning and Assessment Regulation 2000.

(Condition Amended DA-13/208/03)

11. The following shall be complied with:

- a) The maximum floor space ratio shall not exceed 0.96:1 within the B4 Mixed Use Zone, and 1.55:1 within the R3 Medium Density Residential zone.
- b) The approved building heights is defined generally as follows:
 - i) Building A1 and A2 (within the B4 zone) shall be no greater than 3 storeys or 10 metres in height.
 - ii) Building B1 (west) along Pemberton Street (within the B4 zone) shall be no greater than 3 storeys or 12.4 metres in height, with the exception that Building B3 along Pemberton Street is 4 storeys or 16.5 metres.
 - iii) Building B3 (south wing) shall be no greater than 7 storeys or 25.5 metres and part 5 storeys or 19.5 metres.
 - iv) Building B (east wing) shall be no greater than 8 storeys or 28.6 metres.
 - v) Building B2 (north east wing) shall be no greater than 4 storeys or 15.5 metres.
 - vi) Building D2 (south/west wing) shall be no greater than 7 storeys or 25.3 metres.
 - vii) Building D3 (north-west wing) shall be no greater than 7 storeys or 25.4 metres.
 - viii) Building D3 (north wing) shall be no greater than 4 storeys or 15.3 metres.
 - ix) Building D1 (east wing) along Wilson Street shall be no greater than 3 storeys or 12.1 metres.
 - x) Building E1, along Wilson Street shall be no greater than 3 storeys or 11.5 metres.
 - xi) Building E2 shall be no greater than 5 storeys or 18.7 metres.
- c) The development must comply with the following minimum number of adaptable housing and shall be designed and constructed to comply with Adaptable Housing Class A:
 - i) 0 – 9 units – Nil;
 - ii) 10-30 units – 1 adaptable housing;
 - iii) 31-50 units – 2 adaptable housing;
 - iv) 51 plus – 2 units, plus an additional 1 unit for each 30 units;
- d) The number of ~~apartments~~ *dwelling*s must not exceed 435 *dwelling*s for Development Stage 1 and 1 *dwelling* for Development Stage 2, or the number of apartments as can be contained in compliance with sub conditions (a), (b) & (c) thereof, whichever is the lesser.

(Condition Amended DA-13/208/03)

12. All costs associated with these development conditions shall be borne by the applicant. If, when actioning these conditions, Council's solicitor is required to act on behalf of Council, then Council's solicitor's fees and charges shall also be borne by the applicant.

- ~~13. While Building E and the townhouses are to be separated into 2 development stages. Development Stage 1 must provide for all vehicular access to Building E is approved, two of the proposed townhouses shall not be constructed, to provide alternate vehicular access to those dwellings from Wilson Street in accordance with DA-1110_E – Stage 1. Development Stage 2 may be constructed in accordance with DA-1110_E – Stage 2, involving erection of an additional townhouse, provision of vehicular access points to Building E and the basement from Mahroot Street after the date on which either When alternate dedicated public access is available from the proposed 'New Mahroot Street' or registration of a right of way over Lot 4 in DP 1203451 benefitting the Site so as to allow vehicular access via Mahroot Street., this matter may be re-visited. Amended plans in accordance with this condition are to be provided to the Director, City Planning & Environment, prior to the issue of a Construction Certificate.~~

~~Alternative temporary vehicular access to Building E from Wilson Street, in accordance with DA-1110_E Rev I – Stage 1, is approved. The Stage 1 temporary access must be removed and the land redeveloped in accordance with DA-1110_E Rev I – Stage 2 within four (4) months of either alternate dedicated public access being available from Mahroot Street or registration of a right of way over Lot 4 in DP 1203451 benefitting the site so as to allow vehicular access via Mahroot Street.~~

~~Prior to the issue of the first Occupation Certificate for above ground works, the applicant shall lodge with Council a bond for \$100,000 against the works to the Pocket Park extension (shown on the approved plans prepared by Dunlop Thorpe & Co as Lot 30). The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee, which will be refundable upon completion of the Stage 2 access works, as per DA-1110_E Rev I – Stage 2.~~

~~(Condition Amended DA-13/208/02) (Condition Amended DA-13/208/03)
(Condition Amended DA-13/208/07)~~

- ~~14. Unit numbers B4305, B4306 and B4307 shall be deleted and that component of the building is to be removed. Amended plans in accordance with this condition are to be provided to the Director, City Planning & Environment, prior to the issue of a Construction Certificate. (Condition Deleted DA-13/208/03)~~
- ~~15. An additional 37 on-site visitor spaces are to be provided with no reduction in deep soil landscaped area. Amended plans in accordance with this condition are to be provided to the Director, City Planning & Environment, prior to the issue of a Construction Certificate. (Condition Deleted DA-13/208/03)~~

~~16. All floor to floor heights for residential habitable floors shall be reduced to 3.1 metres. Amended plans in accordance with this condition are to be provided to the Director, City Planning & Environment, prior to the issue of a Construction Certificate. (Condition Amended DA-13/208/02)
(Condition Deleted DA-13/208/03)~~

16A. All demolition works are to be undertaken in accordance with DA 14/239.

(Previously Condition 20, now moved from prior to Commencement of Works Section; DA-13/208/02)

16B. The approved stratum plans may be subject to amendment, as required by Council, to satisfy conditions of consent relating to the public parks, and the location of infrastructure, such as substations. (Condition Added DA-13/208/03)

CONDITIONS IMPOSED BY AN EXTERNAL AUTHORITY

17. The following condition is imposed by Ausgrid and is to be complied with:

- a) Ausgrid has two existing substations within the site. If these substations are to be removed, it will be necessary to establish new substations onsite before decommissioning.
- b) New substations will be required to supply the proposed development.

18. The following conditions form the General Terms of Approval by the NSW Office of Water and must be complied with:

General

- a) An authorisation shall be obtained for the take of groundwater as part of the activity. Groundwater shall not be pumped or extracted for any purpose other than temporary construction dewatering at the site identified in the development application. The authorisation shall be subject to a currency period of 12 months from the date of issue and will be limited to the volume of groundwater take identified.
- b) The design and construction of the building must prevent any take of groundwater after the authorisation has lapsed by making any below-ground levels that may be impacted by any watertable watertight for the anticipated life of the building. Waterproofing of below-ground levels must be sufficiently extensive to incorporate adequate provision for unforeseen high watertable elevations to prevent potential future inundation.
- c) Sufficient permanent drainage shall be provided beneath and around the

outside of the watertight structure to ensure that natural groundwater flow is not impeded and:

- A. any groundwater mounding at the edge of the structure shall be at a level not greater than 10 % above the level to which the watertable might naturally rise in the location immediately prior to the construction of the structure; and
 - B. any elevated watertable is more than 1.0 m below the natural ground surface existent at the location immediately prior to the construction of the structure; and
 - C. where the habitable structure is founded in bedrock or impermeable natural soil then the requirement to maintain groundwater flows beneath the structure is not applicable.
- d) Construction methods and material used in and for construction shall be designed to account for the likely range of salinity and pollutants which may be dissolved in groundwater, and shall not themselves cause pollution of the groundwater.
- e) The NSW Office of Water requires documentation (referred to as 'report') comprising measurements, maps, borelogs, calculations, results, discussion and justification for various matters related to the dewatering process. Information will be required at several stages: prior to construction commencing (initial report - which will accompany the application for the authorisation), at any time when an authorisation renewal is required or a significant change in activities occurs (intermediate report); and at the completion of dewatering and related operations (completion report). Reports need to be submitted to the NSW Office of Water at Parramatta Office, in a format consistent with electronic retrieval without editing restrictions; raw data should be presented in Excel spreadsheets without editing restrictions.

Prior to excavation

- f) The following shall be included in the initial report:
- A. measurements of groundwater levels beneath the site from a minimum of three relevant monitoring bores, together with details of the bores used in the assessment including borelogs and three-dimensional identification information.
 - B. a map of the site and its immediate environs depicting the watertable (baseline conditions) shown relative to the topography and approved construction footprint from the surface level and below. An assessment of the potential variation in the watertable during the life of the proposed building together with a discussion of the methodology and information on which this assessment is based.

- C. details of the present and potential groundwater flow paths and hydraulic gradients in and around the site; the latter in response to the final volumetric emplacement of the construction.
 - D. a schedule for the ongoing water level monitoring and description of the methodology to be used, from the date of consent until at least two months after the cessation of pumping. [The Office of Water prefers that monitoring be undertaken on a continuous basis using automatic loggers in boreholes.]
- g) The Applicant shall assess the likely impacts of the dewatering activities on other groundwater users or structures or public infrastructure; this assessment will include an appropriate bore, spring or groundwater seep census and considerations relevant to potential subsidence or excessive settlement induced in nearby buildings and property, and be documented together with all calculations and information to support the basis of these in the initial report.
 - h) Groundwater quality testing of samples taken from outside the footprint of the proposed construction, with the intent of ensuring that as far as possible the natural and contaminant hydrochemistry of the potential dewatered groundwater is understood, shall be conducted on a suitable number of samples and tested by a NATA-certified laboratory. Details of the sampling locations and the protocol used, together with the test results accompanied by laboratory test certificates shall be included in the initial report. An assessment of results must be done by suitably qualified persons with the intent of identifying the presence of any contaminants and comparison of the data against accepted water quality objectives or criteria for the intended dewatering purpose. In the event of adverse quality findings, the Applicant must develop a plan to mitigate the impacts of the hydrochemistry on the dewatered groundwater and present the details of all assessments and plans in the initial report.
 - i) Groundwater quality testing generally in accordance with Clause 8, shall be undertaken on any anniversary or other renewal or alteration of any dewatering authorisation.
 - j) A reasonable estimate of the total volume of groundwater to be extracted shall be calculated and included in the initial report; together with details and calculation methods for the parameters and supporting information to confirm their development or measurement (e.g. permeability predicted by slug-testing, pump-testing or other means).
 - k) A copy of a valid development consent for the project shall be provided in the initial report.
 - l) The method of disposal of pumped water shall be nominated (i.e. reinjection, drainage to the stormwater system or discharge to sewer) and a copy of the written permission from the relevant controlling authority shall be

provided in the initial report. The disposal of any contaminated pumped groundwater (sometimes called “tailwater”) must comply with the provisions of the Protection of the Environment Operations Act 1997 and any requirements of the relevant controlling authority.

- m) Contaminated groundwater (i.e. above appropriate NEPM 2013 thresholds) shall not be reinjected into any aquifer. The reinjection system design and treatment methods to remove contaminants shall be nominated and included in the initial report and any subsequent intermediate report as necessary. The quality of any pumped water that is to be reinjected must be demonstrated to be compatible with, or improve, the intrinsic or ambient groundwater in the vicinity of the reinjection site.

During excavation

- n) Engineering measures designed to transfer groundwater around and beneath the basement shall be incorporated into the basement construction to prevent the completed infrastructure from restricting pre-existing groundwater flows.
- o) Piping, piling or other structures used in the management of pumped groundwater shall not create a flooding hazard or induce mounding of groundwater. Control of pumped groundwater is to be maintained at all times during dewatering to prevent unregulated off-site discharge.
- p) Measurement and monitoring arrangements to the satisfaction of the NSW Office of Water are to be implemented. Weekly records of the volumes of all groundwater pumped and the quality of any water discharged are to be kept and a completion report provided after dewatering has ceased. Records of groundwater levels are to be kept and a summary showing daily or weekly levels in all monitoring bores provided in the completion report.
- q) Pumped groundwater shall not be allowed to discharge off-site (e.g. adjoining roads, stormwater system, sewerage system, etc) without the controlling authority’s approval and/or owner’s consent/s. The pH of discharge water shall be managed to be between 6.5 and 8.5. The requirements of any other approval for the discharge of pumped groundwater shall be complied with.
- r) Dewatering shall be undertaken in accordance with groundwater-related management plans applicable to the excavation site. The requirements of any management plan (such as acid sulfate soils management plan or remediation action plan) shall not be compromised by the dewatering activity.
- s) The location and construction of groundwater extraction works that are decommissioned are to be recorded in the completion report. The method of decommissioning is to be identified in the documentation.
- t) Access to groundwater management works used in the activity is to be provided to permit inspection when required by the NSW Office of Water

under appropriate safety procedures.

Following excavation

- u) Following completion of the dewatering operations, the Applicant shall submit to the NSW Office of Water, Parramatta Office, the completion report which shall include:
 - A. detail of the volume of water taken, the precise periods and location of water taken, the details of water level monitoring in all of the relevant bores; and
 - B. a watertable map depicting the aquifer's settled groundwater condition and a comparison to the baseline conditions; and
 - C. a detailed interpreted hydrogeological report identifying all actual resource and third party impacts, including an assessment of altered groundwater flows and an assessment of any subsidence or excessive settlement induced in nearby buildings and property and infrastructure.
 - v) The completion report is to be assessed by NSW Office of Water prior to any certifying agency's approval for occupation or use of the completed construction.
19. The following conditions are imposed by the Sydney Airport Corporation Limited (SACL) and must be complied with:
- Sydney Airports Corporation Limited (SACL) has raised no objection to the height of the development up to a level of 33.6 metres above Australian Height Datum (AHD). The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, and construction cranes etc. Should the development exceed 33.6 metres above AHD, a further application shall be submitted to Sydney Airports Corporation for approval.
- i) Should the height of any temporary structure and/or equipment greater than 50 feet (15.24 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161. Please note that construction cranes may be required to operate at a height significantly higher than that of the proposed development. A further application shall be submitted to Sydney Airports Corporation Limited for the erection of such temporary structures/construction equipment at the site. Any application for approval should be submitted to the Corporation at least 35 days prior to the commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293.
 - ii) Operation of construction equipment (i.e. cranes) should be obtained prior to any commitment to construct and the following information is required by SACL prior to any approval:

- The location of any temporary structure or equipment, i.e. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
 - The swing circle of any temporary structure/ equipment used during construction;
 - The maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment i.e. construction cranes, intended to be used in the erection of the proposed structure/activity;
 - The period of the proposed operation (i.e. construction cranes) and desired operating hours for any temporary structures.
- iii) Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed “controlled activity” and is punishable by a fine of up to 50 penalty units.

The height of the PANS OPS surfaces component of the prescribed airspace at the site is 51.0 metres above Australian Height Datum (AHD). In accordance with Regulation 9 of the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, “a thing to be used in erecting the building, structure of thing would, during the erection of the building, structure or thing, intrude into PANS OPS airspace for the Airport, cannot be approved”.

PRIOR TO COMMENCEMENT OF ANY WORKS

~~20. All demolition works are to be undertaken in accordance with DA 14/239.~~

(Condition 20 deleted and moved to now be Condition 16A; DA-13/208/02)

21. Prior to commencement of any works on-site, a dilapidation report of the immediate adjoining properties and public infrastructure (including Council and public utility infrastructure) shall be prepared by a qualified person and submitted to Council. The report shall include records and photographs of the following area that will be impacted by the development:

- a) All properties immediately adjoining the site;
- b) Pemberton Street, Warrana Street and Wilson Street; and

The applicant shall bear the cost of all restoration works to buildings/ structures and public infrastructure that been damaged during the course of the demolition, site clearing and site remediation works. Any damage to buildings/structures, infrastructures, roads, lawns, trees, gardens and the like shall be fully rectified by the applicant/developer, at the applicant/developer’s expense. In addition, the following issues shall also be complied with:

- c) A copy of the dilapidation report together with the accompanying photographs shall be given to all immediately adjoining properties owners and public utility authorities. The report shall be agreed by all affected parties as a fair record of existing conditions prior to commencement of any works;
- d) A second dilapidation report, including a photographic survey shall then be submitted at least one month after the completion of demolition/excavation works. A copy of the second dilapidation report together with the accompanying photographs shall be given to Council, public utilities authorities and all adjoining properties owners;
- e) It is a condition of consent that should demolition, site clearing and site remediation works cause rise to public safety and/or workplace safety; works shall halt until absolute safety is restored;

Note: Prior to commencement of the surveys, the applicant/ owner of the development shall advise (in writing) all property owners of buildings to be surveyed of what the survey will entail and of the process for making a claim regarding property damage. A copy of this information shall be submitted to Council.

(Condition Amended DA-13/208/02)

22.

- a) There shall be no loss of support to the Council's nature strip area as a result of the construction within the site. Details prepared by a practicing Structural Engineer of how this support will be maintained during the demolition works shall be submitted to Council prior to the commencement of works.
- b) Council's property shall be supported at all times. Where any shoring is to be supporting (or located on) Council's property, certified engineering drawings showing all details including the extent of encroachment, the type of shoring and the method of removal, shall be submitted prior to the issue of *the relevant* Construction Certificate. If the shoring cannot be removed, it shall be cut to 150mm below footpath level and the gap between the shoring and any buildings shall be filled with a 5Mpa lean concrete mix.

(Condition Amended DA-13/208/02)

~~23. Prior to the commencement of demolition work, a licensed demolisher who is registered with the WorkCover Authority must prepare a Work Method Statement to the satisfaction of the Principal Certifying Authority (Council or an accredited certifier) and a copy sent to Council (if it is not the PCA). A copy of the Statement must also be submitted to the WorkCover Authority.~~

~~The statement must be in compliance with: AS2601-1991 Demolition of Structures," the requirements of WorkCover Authority and conditions of the Development Approval, and must include provisions for:~~

- ~~a) Enclosing and making the site safe, any temporary protective structures must comply with the "Guidelines for Temporary Protective Structures (April 2001)";~~
- ~~b) Induction training for on-site personnel;~~
- ~~c) Inspection and removal of asbestos, contamination and other hazardous materials (by appropriately licensed contractors);~~
- ~~d) Dust control – Dust emission must be minimised for the full height of the building. A minimum requirement is that perimeter scaffolding, combined with chain wire and shade cloth must be used, together with continuous water spray during the demolition process. Compressed air must not be used to blow dust from the building site;~~
- ~~e) Disconnection of Gas and Electrical Supply;~~
- ~~f) Fire Fighting – Fire fighting services on site are to be maintained at all times during demolition work. Access to fire services in the street must not be obstructed;~~
- ~~g) Access and Egress – No demolition activity shall cause damage to or adversely affect the safe access and egress of this building;~~
- ~~h) Waterproofing of any exposed surfaces of adjoining buildings;~~
- ~~i) Control of water pollution and leachate and cleaning of vehicles tyres – Proposals shall be in accordance with the "Protection of the Environmental Operations Act 1997";~~
- ~~j) Working hours, in accordance with this Development Consent;~~
- ~~k) Confinement of demolished materials in transit;~~
- ~~l) Location and method of waste disposal and recycling in accordance with the "Waste Minimisation and Management Act 1995";~~
- ~~m) Sewer – common sewerage system;~~
- ~~n) On site monitoring both during asbestos removal and the remainder of demolition activities.~~

(Condition Deleted; DA-13/208/02)

24. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:
- a) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities to determine the position and level of services;
 - b) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with:

- i) The additional load on the system; and
- ii) The relocation and/or adjustment of the services affected by the construction.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

~~25. Prior to demolition of any building constructed before 1970, the person acting on this consent shall ensure compliance with Australian Standard AS2601-2001, Demolition of Structures by a person with suitable expertise and experience. This may involve a Work Plan that identifies any hazardous materials including surfaces coated with lead paint, method of demolition, the precautions to be employed to minimize any dust nuisance and the disposal methods for hazardous materials, including:~~

- ~~a) Removal, cleaning and disposal of lead-based paint shall conform to the current EPA guidelines. Demolition of materials incorporating lead is to be conducted in strict accordance with sections 1.5, 1.6, 1.7, 3.1 and 3.9 of the AS2601-1991 Demolition of structure.~~
- ~~b) Hazardous dust shall not be allowed to escape from the site. Any existing accumulations of dust (e.g.; ceiling voids and wall cavities) shall be removed by the use of an industrial vacuum fitted with a high efficiency particulate air (HEPA) filter. All dusty surfaces and dust created from work is to be suppressed by a fine water spray. Water shall not be allowed to enter the street and stormwater systems. Demolition is not to be performed during high winds, which may cause dust to spread beyond the site boundaries.~~
- ~~c) All contractors and employees directly involved in the removal of hazardous dusts and substances wearing protective equipment conforming to Australian Standard AS1716 Respiratory Protective Devices and shall adopt work practices in accordance with the requirements of WorkSafe's Control of Inorganic Lead At Work (NOHSC: 102(1994) and NOHSC: 2015(1994).~~
- ~~d) All lead-contaminated materials being disposed of in accordance with the Environment Protection Authorities Environmental Guidelines; Assessment, Classification and Management of Liquid and Non-Liquid Wastes (1999) and The Protection of the Environment Operations Act 1997 (NSW).~~

~~(Condition Deleted; DA-13/208/02)~~

26. Prior to commencement of any works application(s) shall be made to Council's Customer Services Counter and obtained the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993:

It should be noted that any works shown within Council's road reserve or other

Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)

- a) Permit to erect hoarding on or over a public place, including Council's property/road reserve,
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips,
 - c) Permit for roads and footways occupancy (long term/ short term),
 - d) Permit to construct vehicular crossings, footpaths, kerbs and gutters over road reserve,
 - e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever, such as relocation / re-adjustments of utility services,
 - f) Permit to place skip/waste bin on footpath and/or nature strip,
 - g) Permit to install temporary shoring under Council's road reserve, and
 - h) Permit to use any part of Council's road reserve or other Council lands.
27. Erosion and sediment control devices shall be installed and in function prior to the commencement of any ~~demolition~~, excavation or construction works upon the site in order to prevent sediment and silt from site works (including ~~demolition and/or~~ excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
(Condition Amended DA-13/208/02)
28. Any soil disposed of offsite shall be classified in accordance with the procedures in the NSW EPA Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes (1999).
29. The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
30. Shaker pads are to be installed at the entry/exit points to the site to prevent soil material leaving the site on the wheels of vehicles and other plant and equipment.
31. The construction of the premises shall not give rise to transmission of vibration at

any affected premises that exceeds the vibration in buildings criteria outlined in the NSW EPA Environmental Noise Control Manual.

32. The approved Waste Management Plan for the, shall be complied with at all times during ~~demolition~~ works and construction works.
(Condition Amended DA-13/208/02)
33. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A free copy of the sign is available from Council's Customer Service Counter.
34. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times.
35. The Applicant must indemnify Council against all loss of or damage to the property of others and injury or death to any persons which may arise out of or in consequence of the carrying out of the work and against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto. In this regard, the Applicant shall take out a public liability policy during the currency of the works in the sum of not less than \$20,000,000 and to be endorsed with City of Botany Bay Council as principal and keep such policy in force at the Applicant's own expense. A certificate from the Applicant's insurers to this effect is to be LODGED WITH COUNCIL BEFORE ANY WORK IS COMMENCED. The amount of Common Law liability shall be unlimited.
36. A sign must be erected in a prominent position on any work site on which work involved in the erection of a building is being carried out;
 - a) stating that unauthorised entry to the work site is prohibited;
 - b) showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - c) the Development Approval number;
 - d) the name of the Principal Certifying Authority including an after hours contact telephone number; and
 - e) any such sign is to be removed when the work has been completed.
- ~~37. All works carried out on the public roads shall be inspected and approved by Council's engineer. Documentary evidence of compliance with Council's requirements shall be obtained prior to proceeding to the subsequent stages of~~

~~constriction, encompassing not less than the following key stages:~~

- ~~a) Initial pre-construction on-site meeting with Council's engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works associated with the road widening;~~
- ~~b) Prior to placement of concrete (kerb and gutter and footpath);~~
- ~~c) Prior to construction and placement of road pavement materials; and~~
- ~~d) Final inspection.~~

~~Note: Council's standard inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for additional inspections required to be undertaken by Council.~~

~~(Condition Deleted DA-13/208/02)~~

- ~~38. Vibration levels induced by the demolition activities shall not exceed 1mm/sec peak particle velocity (ppv) when measured at the footing of any occupied building.~~
~~(Condition Deleted DA-13/208/02)~~

- ~~39. The upper noise level from the demolition operations measured over a period of 10 minutes must not exceed the background noise level by more than 10dB(A).~~
~~(Condition Deleted DA-13/208/02)~~

40. If any material containing asbestos is found on site during the ~~demolition~~ construction process the material is to be removed and disposed of in accordance with WorkCover requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
(Condition Amended DA-13/208/02)

41. The operation shall not give rise to offensive odour or other air impurities in contravention of the *Protection of the Environment Operations Act 1997*. The Principle contractor shall ensure that all practical means are applied to minimise dust and odour from the site. This includes:
- a) Covering excavated areas and stockpiles,
 - b) The use of fine mists of hydrocarbon mitigating agents on impacted stockpiles or excavation areas,
 - c) Maintenance of equipment and plant to minimise vehicle exhaust emissions,
 - d) Erection of dust screens on the boundary of the property and/or closer to potential dust sources,
 - e) All loads entering or leaving the site are to be covered,

- f) The use of water sprays to maintain dust suppression,
 - g) Keeping excavated surfaces moist.
42. During ~~demolition~~, excavation, remediation and construction, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:
- a) Approved Erosion and Sediment Control Plan;
 - b) Approved Traffic Management Plan and;
 - c) Approved Construction Management Plan.
- (Condition Amended DA-13/208/02)*
43. The following trees existing on the site and the Council road reserve are required to be retained until the issues of building and basement setback, levels, tree retention, landscaping and public domain have been addressed and a revised Arborist report submitted.
- a) Tree 93, ~~88, 100, 104, 106~~ located on adjoining properties to the north.
 - ~~b) Tree # 46A - a Liquidamber in the Wilson Street frontage.~~
 - ~~c) Tree #55 - a Eucalyptus on the site.~~
 - d) All Council street trees in the Wilson ~~and Pemberton Street~~ road reserves.
 - ~~e) All other trees in the Wilson Street setback of the property.~~

In order to ensure that ALL of the above trees are protected during construction, the following is required :

- a) Prior to commencing any works on the property the trees are required to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The fence shall remain in place until construction is complete. This work is to be undertaken by an AQF Level 5 Consulting Arborist.
- b) The area within the fencing is to be mulched with leaf mulch to a depth of 100mm and a weekly deep watering program undertaken during construction.
- c) Fencing shall be erected to ensure the public footway is unobstructed.
- d) If there is insufficient space to erect fencing in a particular area, and after Council approval, wrap the trunk with hessian or carpet underlay to a height of 2.5 metres or to the tree's first lateral branch, whichever is greater, and affix timber palings around the tree with strapping or wire (not nails).
- e) Before any works commence on site, the Applicant is required to contact Council for an inspection of the fenced TPZ's. Council approval is required prior commencement of any work.
- f) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.

PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE

44. A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of Construction Certificate. The program shall detail:

- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
- b) The proposed phases of construction works on the site and the expected duration of each construction phase,
- c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
- d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
- e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
- f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
- g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
- h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
- i) Proposed protection for Council and adjoining properties, and
- j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.

The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

45. A detailed Traffic Management Plan for the pedestrian and traffic management of the site during construction shall be prepared and submitted to the relevant road authority (Council or/and Roads and Maritime Services) for approval. The plan shall:
- be prepared by a RMS accredited consultant,
 - nominate a contact person who is to have authority without reference to other persons to comply with instructions issued by Council's Traffic Engineer or the Police, and
 - if required, implement a public information campaign to inform any road changes well in advance of each change. The campaign may be required to be approved by the Traffic Committee.

Note: Any temporary road closure shall be confined to weekends and off-peak hour times and is subject to Council's Traffic Engineer's approval. Prior to implementation of any road closure during construction, Council shall be advised of these changes and Traffic Control Plans shall be submitted to Council for approval. This Plan shall include times and dates of changes, measures, signage, road markings and any temporary traffic control measures.

46. Prior to any excavation works below 7m below ground level an acid sulfate soil (ASS) assessment shall be undertaken to determine the presence and extent of any ASS.

Note:

- i) Should any potential acid sulfate soil (PASS) or actual acid sulfate soil (AASS) be identified then the an Acid Sulfate Soils Management Plan shall be prepared which shall include any site specific procedures and mitigation measures required and a site analysis from a NATA registered laboratory; and
- ii) All recommendations of the report shall be implemented prior to the commencement of excavation or building works below 7m below ground level.

47. The provision of disabled access throughout the development is required and shall be in compliance with the Building Code of Australia Part D3 "Access for People with Disabilities" and Australian Standard AS1428.1 (2001) - Design for Access and Mobility - Part 1 General Requirements for Access - Buildings. This requirement shall be reflected on the Construction Certificate plans.

48. Prior to the issue of Construction Certificate, the construction drawings shall indicate the following:

- a) That water will be prevented from penetrating behind fittings/linings and into concealed spaces in laundry, sanitary areas and bathrooms etc;
- b) That floor to ceiling in ~~laundry and~~ bathroom areas to be tiled;
- c) That timbers used in the development are plantation, recycled or regrowth

timbers ~~of timbers grown on Australian farms or State forest plantations~~ and that no old growth or rainforest timbers are to be used in any circumstances; and

- d) That plumbing to each dwelling will be separated and adequately contained to prevent noise transmission and vibration.

(Condition Amended DA-13/208/02)

- 49. Prior to the issue of any Construction Certificate, the applicant shall lodge a Damage Deposit of \$784,830.00 (GST Exempt) by way of cash deposit or unconditional bank guarantee to Council against possible damage to Council's asset during the course of the building works. The deposit will be refunded subject to inspection by Council 12 months after the completion of all works relating to the proposed development and Final Occupational Certificate has been issued.

- 50. Prior to the issue of Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's and RMS infrastructure shall be submitted to Council and Principal Certifying Authority.

The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 50m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

- ~~51. The Applicant is to submit payment for a Tree Preservation Bond of \$40,000.00 to ensure the protection of all trees outlined in Condition 39 from damage during site works. The duration of the Bond shall be limited to a period of 12 months after issue of the Occupation Certificate. At the completion of the 12 month period the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified Arborist. If the tree was found to be in decline, damaged (including roots), dead, excessively pruned or removed without Council permission or, if tree protection measures were not satisfied at any time, then Council will forfeit all, or part thereof, of the bond. The Tree Preservation Bond was calculated using the Thyer Tree Evaluation method.~~

(Condition Deleted DA-13/208/02)

- 52. The Pemberton Street setback shall be primarily a deep soil, permeable landscape zone and is to include medium canopy trees. ~~The 1.8m dividing terrace walls are to be reduced in height to be consistent with property boundary walls and allow street surveillance.~~ Landscape sections and elevations are required to accurately depict landscape treatment, hard elements and levels on this frontage. Terraced landscape areas are not recommended to ensure adequate space for tree planting, large shrubs, natural drainage (deep soil, not podium) and to ensure landscaping addresses and relates to the public domain. Sections are to be consistent with plan

drawings and architectural. (Condition Amended DA-13/208/02)

53. ~~The Wilson Street setback shall be a deep soil and permeable landscaped area. Hard paving in the setback is to be minimised (patios, entries etc). This area must contain tree planting and must investigate the retention of existing trees to improve the interface with existing low density residential opposite the site. In order to retain existing trees (as stipulated by Council), existing soil levels in this area must be maintained. This may require a re-evaluation of building and basement setbacks and levels. The setback area is to be primarily a deep soil, permeable landscape zone and is to include medium canopy trees. Dividing terrace wall heights and materials are to be consistent with property boundary walls and allow street surveillance. Landscape sections and elevations are required to accurately depict landscape treatments, hard elements and levels on this frontage. Terraced landscape areas are not recommended to ensure adequate space for tree planting, large shrubs, natural drainage (deep soil, not podium) and to ensure landscaping addresses and relates to the public domain. Sections are to be consistent with plan drawings and architectural. The treatment of this boundary must be consistent with adjoining new developments to the south and provide adequate landscaping adjoining the boundary line that is visible from the public domain. The 2.8m high boundary fencing is to be reduced for consistency with adjoining developments and to improve public domain resolution and interface. The proposed landscape treatment shall be re-designed to be more sympathetic with the street and to adequately and suitably ameliorate the development. The deep soil availability in this setback has not been maximised with large planters or by the planting of trees.~~ (Condition Deleted DA-13/208/02)
54. ~~An Arboricultural Report shall be submitted to Council in accordance with Part 3F of BBDEC2013. The Report shall be prepared by a qualified AQF Level 5 Consulting Arborist who is a practicing member of Arboriculture Australia, only. The report is to include all trees as described in Condition 39 The report is to describe the health and SULE of each tree and provide a management strategy to mitigate impacts.~~ (Condition Deleted DA-13/208/02)
55. The landscape areas shown on the conceptual landscape plans by Tract and dated 1 April 2015 shall be the subject of detailed landscape construction documentation – plans, sections, elevations, construction details and specifications, to be submitted to and approved by the City of Botany Bay Council's Landscape Architect. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, in accordance with BBDCP2013. The detailed, construction level landscape plan shall include, but not be limited to:
- a) A site plan showing building envelopes, paved areas and areas to be landscaped.
 - b) A detailed planting plan at 1:100 scale showing all plant locations, groupings and centres. There is to be a dense layered planting scheme consisting of trees, shrubs and groundcovers/lawn in all landscaped areas.

- c) A plant schedule listing all plants by botanical name, total plant numbers, plant spacings, pot sizes and staking.
- d) Specifications detailing soil and mulch finishes, root barriers, irrigation, edging and other landscape hardworks such as retaining walls.
- e) Areas of paving, schedule of materials, edge treatments and sectional construction details.
- f) All external and internal fencing, privacy screening and pergolas – elevations and materials.
- g) Details of other landscape elements such as furniture, amenity lighting, artwork and water features. Provide sectional construction details and elevations.
- h) Planter box on slab sectional details. Planter box depths to be in accordance with BBDGP2013 and SEPP65.
- i) In communal open spaces, soft landscaping is to be maximised and accessways/ dissecting pathways minimised. Provide lawn as well as planted areas, trees for shade and seating.
- j) A mixture of tree heights and forms shall be used extensively throughout the site – in private courtyards, communal areas and in setbacks using small, medium and large canopy trees ranging in height from 3 to 15 metres. Trees must be of an appropriate scale to complement and ameliorate the development and to pedestrianise landscaped open spaces. Deep soil zones must include larger canopy trees. Setbacks are to include appropriate sized trees to soften the development and integrate it with the streetscape. Trees to be predominantly native, evergreen species using open canopy evergreens or some selected deciduous for solar penetration.
- k) The public park shall incorporate playground equipment area of adequate dimensions and fitout and suited to the projected residential and local community, a *casual* fitness area and BBQ/picnic facilities. These should all be of adequate dimension to promote useability and functionality and well located for access and surveillance.
- l) Playgrounds shall be designed in accordance with Australian Standards and all design and structural certifications provided to Council.
- m) Incorporate shared access paths (north-south or east-west) (to accommodate bicycles).
- n) Show the location of underground stormwater and rainwater tanks and the like and impact on landscape outcome.
- o) Provide landscape furniture and recreational facilities appropriate to the development such as BBQ areas, shelters, seating, playground, water features and the like.
- ~~p) Street setbacks are to be primarily green spaces for the required 3 metre landscaped setback width. Patios shall be provided in private landscape areas behind townhouses, not in the street frontage.~~
- q) Planting is to be provided to all ground floor townhouse rear private open spaces.
- r) Clearly demonstrate tree survival/growth within the sunken tree pits regarding watering, contaminated soils, potential impacts on tree growth,

form and health. Will the planting result in mostly only canopy visible at the podium communal open space level and is this optimal regarding aesthetics, visual surveillance etc.

- s) *Amended landscape are to be submitted to Council including Large/wide format, ~~deep~~ planters ~~are required on~~ to the podium to support trees, ~~not linear type planters~~.*

Once approved by Council, landscaping shall be installed in accordance with the approved landscape as stamped by Council's Landscape Architect prior to the issue of an Occupation Certificate. The landscaped areas on the property shall be maintained in accordance with the approved landscape documentation, the conditions of consent and Council's Landscape DCP at all times.

(Condition Amended DA-13/208/02)

56. A public domain improvements plan shall be submitted for approval by Council. The Plan shall be undertaken by a suitably experienced Landscape Architect and shall include but not be limited to new street tree planting, footpath locations and paving (including segmental paving), street tree pit treatments, tree guards, in-road planted blister islands, street furniture, in ground landscaping, furniture. The Plan shall be in accordance with Council specification or requirement. Civil drawings shall be included detailing levels and detailed footpath construction sections in accordance with Council's Engineering Services requirements and shall be consistent with the landscape drawings.

- 56A. *A plan of the Pocket Park extension shall be submitted for approval by Council. The landscape documentation is to be prepared by a suitably qualified Landscape Architect, and the plan shall be compatible with the existing Pocket Park adjoining to the south. (New condition added DA-13/208/3)*

57. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

- All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines, and
- For commercial developments, the applicant shall provide longitudinal sections along the extremities and the centre line of each internal driveway/access ramp at a scale of 1:25. These long sections shall extend from the horizontal parking area within the property to the centre line of the roadway. The sections shall also show the clear height from the ramp to any overhead structure.

58. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:

- All driveways/access ramps/vehicular crossings shall conform with Australian Standards AS 2890.1 and Council requirements including but not limited to Section 8(v) of the DCP Stormwater Management Technical Guidelines,
 - All service vehicles shall enter the property front in front out,
 - Demonstrate safe headroom clearance of 4.5m is achieved in the driveway entrance and along the along the travel path, parking and manoeuvring areas of a Medium Rigid Vehicle (MRV), including Council's Garbage Truck,
 - Swept path analysis shall be provided for manoeuvring of commercial vehicles, and
 - A longitudinal section plotting headroom clearance above driveway access is to be provided for assessment.
59. Prior to the release of the Construction Certificate, the following required section(s) are to be submitted to and approved by the Principal Certifying Authority:
- Disabled car parking spaces shall be provided and clearly marked as per the Traffic Impact Assessment Report by ASON Group, dated 1 April 2015, Australian Standards AS 2890.6, SEPP 65 Design Code and Council requirements, and
 - All off street disabled parking shall have access to the adjacent road(s) and to the communal open space as per Australian Standards AS 2890.6 and Council requirements.
60. Prior to the release of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Engineering and Regulatory Services Department, showing the method of access of building materials and plant to the property, and storage location on the property during construction and shall include all existing structures.
61. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.
- Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.
62. A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on

Pemberton Street adjacent to the development. The camera and its operation shall comply with the following:

- The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
- The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
- Distance from the manholes shall be accurately measured, and
- The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline and detail maps recording which video is of which pipe shall be submitted to Council prior to the commencement of any works. A written acknowledgment shall be obtained from Council (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

Note: If the existing pipe is full of debris preventing the effective inspection of the pit and pipe system, the contractor shall clear the pipe to a degree where CCTV inspection is possible at the applicants expense.

63. To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall:

- Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services,
- Negotiate with the utility authorities (eg AusGrid, Sydney Water, Telecommunications Carriers and Council in connection with:
 - The additional load on the system, and
 - The relocation and/or adjustment of the services affected by the construction.
- As part of this development, the stormwater drainage pipe from the Kurnell cul-de-sac and traversing the site, shall be diverted to Pemberton St and connect to existing stormwater drainage pit and pipe system on Pemberton St. Detail engineering drawings shall be in accordance with the submitted and approved by Council prior to the issue of the first Construction Certificate.
- The Ausgrid lighting poles along Warrana St *frontage*, will need to be decommissioned and new lighting poles shall be constructed satisfying V2 lighting requirements any other requirements as specified by Council, RMS and any other service provider,
- All above ground utilities *on site frontages*, shall be relocated underground in accordance with Ausgrid and any other affected and relevant service provider *prior to the occupation certificate for Building B*, and

- All underground and above ground infrastructure shall be constructed as specified by Ausgrid, RMS, Council and any other affected service provider. The location of the new electrical pillars, new lighting poles, any new pits and trenches for utilities shall be confirmed with Council prior to the issue of the Construction Certificate any occupation certificate.

Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

(Condition Amended DA-13/208/02)

64. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval.

(The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council's Development Control Plan 'Stormwater Management Technical Guidelines', AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.)

The plans shall incorporate but not be limited to the following:

- The provision made in the Stormwater Management & Flooding Analysis Report by Mott MacDonald, dated March 2015,
- The On-Site Detention System (OSD) shall be designed according to Part 6 of the SMTG. It should be noted that OSD systems shall be designed to detain the stormwater runoff from the site for all storm events up to and including 1 in 100 year ARI storm and permissible site discharge (PSD) shall be based on 1 in 5 year ARI peak flow generated from the site under the "State of Nature" condition (i.e. the site is totally grassed/turfed), rather than pre-development condition,
- Provision of a minimum 10kL rainwater tank collection system for each separate Lot for internal reuse in accordance with Section 4 of Botany Bay's SMTG,
- No pump-out shall be used to drain seepage from the basement due to the elevated water table level. That is the basement shall be designed as a "fully tanked" structure,
- The pump-out can only be utilized to dispose runoff that may enter the basement carpark from driveway access to the basement,
- The pump out system from the basement carpark proposed shall discharge to the on-site stormwater detention (OSD) system,
- If an OSD system is proposed, incorporate a Stormwater Quality Improvement

system to ensure compliance with Section 16 of Botany Bay's SMTG,

- The water quality improvement system and WSUD strategy proposal shall be designed to capture and treat at least 85% flows generated from the site.
- A WSUD Strategy and MUSIC model must be prepared and submitted to Council for the development. The MUSIC model must be prepared in line with the Draft NSW MUSIC Modelling Guidelines (Sydney Metro CMA). Sydney's Water's requirements are that the water quality improvement should meet or exceed the target as described in the "Botany Bay & Catchment Water Quality Improvement Plan" which was prepared by the Sydney Metropolitan Catchment Management Authority in April 2011, and
- The submission of detailed calculations including computer modelling where required supporting the proposal.

65. Prior to issue of any Construction Certificate, the construction plans shall be revised to address the following: -

- a) the maximum of reflectivity of glazing shall not exceed 20%;
- b) any exterior lighting shall be designed to comply with *Section 9.2.1 – Lighting in the Vicinity of Aerodromes Manual of Standards*;
- ~~c) all recommendations stated in the Internal Traffic Assessment Report, prepared by Thompson Stanbury Associates, Ref 12-118, dated November 2012 shall be incorporated into the construction plans;~~
- d) bollards shall be installed at the shared spaces of the disabled parking bays to comply with AS2890.6;
- e) the number of disabled parking bays shall comply with AS2890.6;
- f) garbage bins collection area shall not obstruct the shared vehicle access driveway, fire escape exits, vehicle entrance to the basement car parking area; and
- g) an intercom system shall be provided at the vehicle entrance to the development. This is to ensure visitors can gain access to the visitor parking bays located within the basement car parking area.

(Condition Amended DA-13/208/02)

66. The applicant shall bear the cost of all restoration works to Council's property damaged during the course of this development. The applicant shall advise Council, in writing, of any existing damage to Council property before commencement of the development. Dilapidation survey reports (one prior to commencement and one at completion) of Council's assets, including photographs and written record, must be prepared by a suitably qualified person and submitted to Council prior to the release of Construction and Occupation Certificate.

67. During ~~demolition~~, excavation, remediation and construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
(Condition Amended DA-13/208/02)
- ~~68. Prior to the issue of any Construction Certificate, the applicant shall contact "Dial Before You Dig" to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from "Dial Before You Dig" shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction.~~
~~Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant's expense.~~
(Condition Deleted DA-13/208/02)
69. A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th Edition (2004) and submitted to the Principal Certifying Authority prior to the release of any Construction Certificate.

This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.
70. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or re-use on site. Details of this area shall be provided in the Soil and Water Management Plan (SWMP) prior to the release of any construction certificate. This plan shall incorporate and reference the construction environmental management plan and address site limitations.
- ~~71. A Site Audit Statement will be required for this site prior to the issue of any Construction Certificate.~~ To ensure the necessary assessment and remediation is completed a NSW Environment Authority (EPA) Accredited Site Auditor shall be appointed to the site prior to the commencement of any remediation works, excavation or commencement of works at the site. The Site Auditor shall review and endorse the any additional investigation and remediation proposed prior to the

commencement of any works.

Evidence of this appointment shall be provided to council prior to the issue of any construction certificate.

(Condition Amended DA-13/208/04)

~~72. A separate site audit statement for the park that is to be dedicated to council is required and Council will require that there is no ongoing management of any land that is to be dedicated to Council. The proposed park must be assessed using the appropriate National Environment Protection (Assessment of Site Contamination) Measure 199 as amended 2013 (NEPM 2013) exposure scenario of Public Open Space that includes parks and playgrounds.
(Condition Deleted DA-13/208/02)~~

73. The Remedial Action Plan (RAP) shall avoid the use of containment strategy and contaminants should be treated onsite or removed from the site whenever possible. Any remediation that utilises a containment strategy for contaminants must be accompanied by a Long-term Environmental Management Plan (LTEMP). This LTEMP must be added to the title of the site.

74. An Acid Sulfate Soils Management Plan, that has been prepared by a suitably qualified and experienced environmental/geotechnical consultant, shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority) prior to the issue of any Construction Certificate. This plan shall include any site specific procedures and mitigation measures required and shall include a site analysis from a NATA registered laboratory. The plan shall provide details of the following:

- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil;
- b) Management of acid sulfate affected excavated material;
- c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
- d) Run-off control measures for the acid sulfate affected soil.

This report shall be provided prior to the issue of any construction certificate and all recommendations of the report shall be implemented during works on site.

75. Prior to the issue of Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.

Note: The Long Service Levy may be paid in instalments, subject to the approval of the Long Service Levy Corporation.

(Condition Amended DA-13/208/02)

76. Prior to the issue of the Construction Certificate design verification is required to be submitted from a qualified designer to confirm the development is in accordance with the approved plans and details and continues to satisfy the design quality principles in State Environmental Planning Policy No. 65 Design Quality of Residential Flat Development.
77. Prior to issue of Construction Certificate, plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Principal Certifying Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:
- a) Waste and recycling for commercial users shall be in a separate room from the storage of waste and recycling for residential users;
 - b) The rooms for the storage of garbage and recyclable materials shall be fully enclosed;
 - c) Adequately ventilated and of a suitable size to contain compaction equipment;
 - d) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;
 - e) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation; and,
 - f) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.

~~78. The following requirements apply to telecommunication facilities in the building:~~

- ~~a) Appropriate access and space within the plant area of the building shall be provided for a minimum of three telecommunication carriers or other providers of broad band access by ground or satellite delivery.~~
- ~~b) Appropriate ducting and cabling shall be provided for a minimum of three telecommunication carriers or other providers for telecommunication access and broad band cabling to each apartment of the building.~~
- ~~c) The details of (a) and (b) above shall be submitted for the approval of the Principal Certifying Authority prior to issue of any Construction Certificate.~~

Details demonstrating that the NBN has been provided for all apartments shall be submitted to the Principal Certifying Authority prior to the issue of the relevant

Construction Occupation Certificate.

(Condition Amended DA-13/208/02) (Condition Amended DA-13/208/04)

79.

- a) Any lighting on the site shall be designed so as not to cause nuisance to other residences in the area or to motorists on nearby roads, and to ensure no adverse impact on the amenity of the surrounding area by light overspill;
- b) All lighting shall comply with AS4282-1997 Control of the obtrusive effects of outdoor lighting; and
- c) The installation of solar power to external space lighting. Details shall be submitted to the Principal Certifying Authority prior to the issue of any Construction Certificate.

80. Prior to issue of any Construction Certificate, the following measures shall be provided within the Construction Certificate documentation with respect to noise attenuation/treatment of the building/s in accordance with the criteria listed within this condition:

- a) the measures Referenced to the Acoustic Logic Noise Impact Assessment Revision 1 dated 25 March 2015 the development shall be designed and constructed such that in-flight aircraft noise is mitigated by effective sound insulation and complies the requirements of AS 2021 -2000 'Aircraft Noise intrusion - Building Siting and Construction'.

CRITERIA

- i) A detailed impact assessment of in-flight aircraft noise intrusion shall be conducted by a suitably qualified Acoustic Engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership prior to the issue of construction certificate to determine acoustic treatments required to ensure ~~road-traffic~~ *aircraft* noise does not exceed the relevant Conditions of Consent and legislative requirements. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate.
- b) The development shall be designed and constructed taking into account the requirements for effective sound insulation against external ~~road-traffic~~ *aircraft* noise intrusion and satisfies an internal sound pressure level less than LAeq 1 hour 40dBA, with the doors and windows closed.

CRITERIA

- i) A detailed impact assessment of external ~~road-traffic~~ *aircraft* noise intrusion shall be conducted by a suitably qualified Acoustic Engineer

with MIE Australia membership or employed by a consulting firm eligible for AAAC membership prior to the issue of construction certificate to determine acoustic treatments required to ensure road traffic noise does not exceed the relevant Conditions of Consent. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate.

- c) The development shall be designed and constructed taking into account the requirements for effective sound insulation against external noise intrusion from industrial sources, associated land and water based Port Botany activities and all ground activities associated with the operation of Sydney Kingsford Smith Airport including aircraft take-offs and landings and satisfies an internal sound pressure level less than LA_{max} 50dBA, with the doors and windows closed.

CRITERIA

- i) A detailed impact assessment of noise from industrial sources, associated land and water based Port Botany activities and ground activities associated with the operation of Sydney Kingsford Smith Airport including aircraft take-offs and landings shall be conducted by a suitably qualified Acoustic Engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership prior to the issue of construction certificate to determine acoustic treatments required to ensure noise from these sources does not exceed the relevant Conditions of Consent. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate.
- d) The development shall be designed and constructed taking into account the requirements for effective sound insulation for mechanical plant/equipment installed and operated on the development, and
 - i) shall not give rise to an equivalent continuous (LA_{eq}) sound pressure level at any point on any residential property, external apartment balcony or external apartment window greater than 5dBA above the existing background LA₉₀ level (in the absence of the noise under consideration).
 - ii) shall not give rise to an equivalent continuous (LA_{eq}) sound pressure level at any point on any residential property, external apartment balcony or external apartment window that exceeds LA_{eq} 50dBA daytime and LA_{eq} 40dBA nighttime.
 - iii) shall not give rise to an equivalent continuous (LA_{eq}) sound pressure level at any commercial/industrial premises that exceeds LA_{eq} 65dBA.

For assessment purposes the LA_{eq} levels referenced above in sub-clauses i), ii) and iii) shall be assessed over a 15 minute period and adjusted in accordance with procedures referenced in the NSW Industrial Noise Policy

for tonality, frequency weighting, impulsive characteristics, fluctuation and temporal content where necessary.

CRITERIA

- iv) A detailed noise impact assessment shall be conducted by a suitably qualified Acoustic Engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership prior to the issue of the construction certificate to determine acoustic treatments required to ensure that noise from mechanical plant/equipment systems installed and operated on the development does not exceed the relevant Conditions of Consent. A copy of the report shall be submitted to Principal Certifying Authority prior to the issue of a Construction Certificate.
 - e) Prior to any field acoustic compliance testing of internal walls and floors a report shall be provided to the testing Acoustic Engineering certifying that all internal walls and floors within the development are constructed in accordance with the details submitted the documentation provided for Construction Certificate. Any variations to CC approved documentation shall be approved by the Principal Certifying authority and identified in the report.
81. Prior to the issue of Construction Certificate, a minimum ~~777~~ 806 off-street car parking bays as defined in AS2890.2 shall be provided to the development as shown on the approved architectural plans. All parking bays and loading bays shall be line marked. The allocation of parking bays shall be in accordance with the following:-
- a) ~~777~~ Parking bays shall be allocated to commercial tenancies, residents and visitors parking only. The allocation of parking bays shall be based on the following rate:
 - ~~9~~ Commercial units 1 space/50m² GFA
 - Studio/ 1-bedroom unit 1 space/unit
 - 2/3 and 4 bedroom 2 spaces/unit
 - b) ~~Forty Eight (48)~~ *Eighty-five (85)* off-street parking bays shall be made available at all times for visitors parking, with minimum one (1) parking bay to also be used as car wash bay.
 - c) The allocation of disabled parking and shall be based on the following rate:
 - Adaptable Studio/ 1-bedroom unit 1 space/unit
 - Adaptable 2/3 and 4 bedroom 2 spaces/unit
 - d) At least one (1) disabled parking bay shall be available for visitor parking.
 - e) A minimum one (1) car wash bays shall be provided and shall be connected to water and sewer.
 - f) The proposed car parking facility (space size, aisle widths, headroom clearance gradients and safe sight distance etc) shall be designed to ensure all

vehicles visiting the site can safely enter and leave in a forward direction in accordance with relevant sections of AS2890. The architectural plans shall be amended where required and Traffic Engineering certification confirming compliance shall be submitted for approval with the Construction Certificate application.

(Condition Amended DA-13/208/02) (Condition Amended DA-13/208/03)

82. Prior to the issue of Construction Certificate, the measures required in the Wind Impact Assessment, Report prepared by Windtech Pty Ltd dated 31 March 2015 shall be detailed on the Construction Certificate plans.

83. Prior to the issue of Construction Certificate, a Certificate under Section 73 of the Sydney Water Act 1994 shall be obtained and submitted to Council for each stage of construction to ensure that the developer has complied with all relevant Sydney Water requirements, including appropriate connections, correctly sized amplifications, procurement of trade waste agreements, where necessary, and the payment of developer charges.

Note: Immediate application should be made to Sydney Water for this Certificate to avoid problems in servicing the development.

- ~~84. Plans and specifications for the storage room for waste and recyclable materials shall be submitted to the Certifying Authority with the application for the Construction Certificate. Storage of Waste and recycling shall meet the following requirements:~~

~~a) The rooms for the storage of garbage and recyclable materials shall be:~~

~~i) fully enclosed;~~

~~ii) adequately ventilated;~~

~~iii) Constructed with a concrete floor, concrete or cement rendered walls coved to the floor;~~

~~iv) The floor shall be graded to an approved sewer connection incorporating a sump and galvanized grate cover or basket in accordance with the requirements of Sydney Water Corporation.~~

~~v) Washing facilities shall be provided within close proximity to the garbage and recycling storage area.~~

~~a) All garbage must be collection within the site. The head clearance of the loading dock area to facilitate this must be 4.6 metres.~~

(Condition Deleted DA-13/208/02)

- ~~85. A suitable intercom system linked to all units within the development shall be provided at the vehicle entrance to the development to ensure any visitors to the site~~

~~can gain access to the visitor parking in the car parking area. The details of the intercom system shall be submitted to the Certifying Authority prior to the issue of a Construction Certificate and its location and specifications endorsed on the construction drawings.~~

~~(Condition Deleted DA-13/208/02)~~

86. Prior to the issue of the Construction Certificate, detailed construction plans in relation to the development shall be revised and submitted to Council for approval. The plan shall be revised to include the following:
- a) Any wall or fence or solid object on either side of the driveway/vehicular crossing where it meets the Council's road reserve at the boundary must comply with sight distances stipulated in AS 2890.2.
87. The fire hydrant and booster assembly are required to be housed within an external façade/wall of the building or elsewhere within the building structure and shall be enclosed/screened with doors to Council approval.
88. The public area of the residential parts of each building must be designed by a practicing Interior Designer or other appropriately qualified person and include (but not limited to) colour schemes, artwork surface finishes, timber mid rails/skirting boards etc.
89. Any air conditioning units are to be located so that they are not visible from the street or public place and are not obscure windows/window frames or architectural features of the development with details shown on plans submitted with the construction certificate.

CONDITIONS WHICH MUST BE SATISFIED DURING WORKS RELATED TO THE DEVELOPMENT

90. In order to ensure that ALL of the trees required to be retained ~~in Condition 39~~ are protected during construction, the following is required :
- a) All TPZ's as well as the entire Council nature strip are a "No-Go" zone. There shall be no access to the property excluding existing crossovers, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer.
 - b) Where unavoidable foot access is required in the TPZ, provide temporary access with timber sheets to minimise soil compaction, spillage or root damage.

- c) Excavation within the canopy dripline and within an area extending 3 metres outward of the canopy dripline of any street tree shall be carried out manually using hand tools to minimise root damage or disturbance.
- d) Tree roots 40mm in diameter or greater that require pruning shall be done only under the direction of Council's Tree Officer after a site inspection so as not to unduly impact or stress the tree.
- e) Ensure that there is no damage to the canopy, trunk or root system (including the surrounding soil) of any tree. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under separate application.
- f) The Applicant must ensure a minimum offset of 3 metres between any driveway crossover and street tree. Excavation for the crossover shall be undertaken manually. If major roots are encountered Council's Tree Officer is required to inspect and provide advice.
- g) Masonry boundary fencing/walls or retaining walls shall be of piered or bridged construction to minimise damage to major or structural street tree roots. Trench or strip footings are not permitted. If a tree root 40mm diameter or greater is in the location of a pier and the root cannot be cut without compromising the tree (must be obtained after Council inspection and advice), the pier will need to be relocated and the root bridged.
- h) There shall be no walls retaining or otherwise, pavements, change in levels, trenching for new sub-surface utilities or the location of new overhead services within the primary root zone or canopy of any tree. Any such structures in close proximity to trees must accommodate tree roots without damage or pruning.
- i) The Applicant shall undertake any tree maintenance/remedial pruning as required by Council at the completion of construction.

If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council may claim all or part of the lodged security bond prior to its release as well as require remedial pruning work. Epicormic growth is evidence of root damage.

(Condition Amended DA-13/208/02)

~~91. A Soil and Water Management Plan (SWMP) shall be prepared in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). All management measures recommended and contained within the Soil and Water Management Plan (SWMP) shall be implemented in accordance with the Landcom Managing Urban Stormwater – Soils and Construction 4th Edition (2004). This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times. A copy of the SWMP shall be kept on-site at all times and made available to Council Officers on request.~~

(Condition Deleted DA-13/208/02)

92. Erosion and sediment control devices shall be installed and functioning prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into public stormwater drainage system, natural watercourses, bushland and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the legislative requirements and guidelines including the *Protection of the Environment Operations Act 1997*.

These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.

- ~~93. The vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.~~
(Condition Deleted DA-13/208/02)

94. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge shall be provided in this report.

Reports shall be provided to council prior to discharge of any groundwater to the stormwater system.

95. Any new information that comes to light during ~~demolition~~ or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.

(Condition Amended DA-13/208/02)

96. All remediation work must be carried out in accordance with:

- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites'; and
- b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997; and
- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land;

and

- d) The 'Remediation Action Plan - 47-67 Wilson Street Botany NSW 2019' prepared by DLA Environmental, Document No. S002334 dated November 2014; and
 - e) Any recommendations of the appointed NSW Environment Authority (EPA) Accredited Site Auditor.
97. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
 - b) Protection of the Environment Operations Act 1997.
 - c) Protection of the Environment Operations (Waste) Regulation 2014.
 - d) NSW Environment Protection Authority Waste Classification Guidelines 2014.
98. The management of potential and actual acid sulfate soils shall be conducted in accordance with all recommendations within the Acid Sulfate Soil Management Plan required to be submitted prior to any construction certificate including:
- a) Site specific mitigation measures to both minimise the disturbance of acid sulfate soils as well as any measures relating to acid generation and acid neutralisation of the soil; and
 - b) Management of acid sulfate affected excavated material;
 - c) Measures taken to neutralise the acidity of any acid sulfate affected material; and
 - d) Run-off control measures for the acid sulfate affected soil.
- ~~99. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be released into Councils stormwater system.~~
- ~~If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.~~
- ~~(Condition Deleted DA-13/208/02)~~
100. All materials excavated from the site (fill or natural) shall be classified in accordance

with the NSW Environment Protection Authority (EPA) Waste Classification Guidelines (2014) prior to being disposed of to a NSW approved landfill or to a recipient site.

101. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:

- a) Office of Environment and Heritage (OEH) approved guidelines; and
- b) Protection of the Environment Operations Act 1997; and
- c) Protection of the Environment Operations (Waste) Regulation 2014.

All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

102. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan;
- b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
- c) Protection of the Environment Operations Act 1997.

103. During demolition, excavation, construction and any associated delivery activities, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any construction-related vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's lands.

(Condition Amended DA-13/208/02)

104. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

105. During construction, the principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Soil and Water Management Plan if required under this consent;
- b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and

c) Protection of the Environment Operations Act 1997.

Where there is any conflict The Blue Book takes precedence.

Note: The International Erosion Control Association – Australasia (<http://www.austieca.com.au/>) lists consultant experts who can assist in ensuring compliance with this condition. Where Soil and Water Management Plan is required for larger projects it is recommended that this be produced by a member of the International Erosion Control Association – Australasia.

Note: The “Do it Right On Site,” can be down loaded free of charge from Council’s website and further information on sediment control can be obtained from www.ssroc.nsw.gov.au.

Note: A failure to comply with this condition may result in penalty infringement notices, prosecution, notices and orders under the Act and/or the *Protection of the Environment Operations Act 1997* without any further warning. It is a criminal offence to cause, permit or allow pollution.

Note: Section 257 of the *Protection of the Environment Operations Act 1997* provides inter alia that “the occupier of premises at or from which any pollution occurs is taken to have caused the pollution”

Warning: Irrespective of this condition any person occupying the site may be subject to proceedings under the Protection of the Environment Operations Act 1997 where pollution is caused, permitted or allowed as the result of their occupation of the land being developed.

106. During construction and any associated deliveries activities, the applicant shall ensure that all works and measures have been implemented in accordance with following approved plans at all times:-

- a) Approved Erosion and Sediment Control Plan; and
- b) Approved Construction Traffic Management Plan.

107. All works carried out on the road reserve (including future road reserve area) shall be inspected and approved by Council’s engineer. Documentary evidence of compliance with Council’s requirements shall be obtained prior to proceeding to the subsequent stages of construction, encompassing not less than the following key stages: -

- a) Initial pre-construction on-site meeting with Council’s engineers to discuss concept and confirm construction details, traffic controls and site conditions/constraints prior to commencement of the construction of the civil works
- b) Prior to backfill of street drainage pipes
- c) Prior to placement of concrete (vehicular crossings, kerb and gutter, footpaths and shared pedestrian/cyclist paths)

- d) Prior to placement of road pavement
- e) Final inspection

Council's inspection fee will apply to each of the above set inspection key stages. Additional inspection fees may apply for any additional inspections undertaken by Council.

108. Construction Noise shall be in accordance with the following:

- a) Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.
- b) Level Restrictions
 - i) Construction period of 4 weeks and under:
 - ii) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).
- c) Construction period greater than 4 weeks and not exceeding 26 weeks:
 - i) The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).
- d) Time Restrictions
 - i) Monday to Friday 07:00am to 06:00pm
 - ii) Saturday 07:00am to 04:00pm
 - iii) No Construction to take place on Sundays or Public Holidays.
- e) Silencing
 - i) All possible steps should be taken to silence construction site equipment.

109. The construction of the premises shall not give rise to transmission of vibration at any affected premises that exceeds the vibration in buildings criteria outlined in the NSW EPA Environmental Noise Control Manual.

~~110. All vehicles transporting soil, sand or similar materials to or from the site shall cover their loads at all times. (Condition Deleted DA-13/208/02)~~

~~111. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out~~

- ~~a) — stating that unauthorised entry to the work site is prohibited;~~
 - ~~b) — showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;~~
 - ~~c) — the Development Approval number;~~
 - ~~d) — the name of the Principal Certifying Authority including an after hours contact telephone number; and,~~
 - ~~e) — any such sign is to be removed when the work has been completed.~~
- (Condition Deleted DA-13/208/02)*

112. Construction Operations

- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
- b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
- d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.

~~113.~~ During ~~Demolition~~, Excavation and Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of demolition, excavation and construction. The area fronting the site and in the vicinity of the development shall also be make safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council. *(Condition Amended DA-13/208/02)*

114. During ~~Demolition~~, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-

related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land. (*Condition Amended DA-13/208/02*)

115. During construction, the applicant shall ensure that all works and measures have been implemented in accordance with approved Traffic Management Plan and Construction Management Plan at all times.

PRIOR TO THE ISSUE OF ANY OCCUPATION CERTIFICATE

116. A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:

- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
- b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
- c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the proposed residential and public park use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.

117. To ensure that the site is suitable for the proposed uses, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management Act 1997* shall be submitted to Council clearly demonstrating that the site is suitable for the proposed residential and dedicated public park use. This shall be provided prior to the release of any Occupation Certificate.

A separate site audit statement for the ~~park parks~~ that ~~is~~ are to be dedicated to council, **including the Pocket Park extension (known as Lot 30)**, is required and Council will require that there is no ongoing management of any land that is to be dedicated to Council. The proposed ~~park parks~~ must be assessed using the appropriate NEPM 2013 exposure scenario of Public Open Space that includes parks and playgrounds.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) for each SAS completed prior to the issuing of any Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that

they form part of the consent conditions.

(Condition Amended DA-13/208/07).

118. Prior to the issue of any Occupation Certificate, the applicant shall lodge with the Council a performance bond of \$514,770.00 against defective public civil works undertaken by the main contractor for a period of twelve (12) months from the date of the completion agreed by Council. The bond shall be lodged in the form of a cash deposit, cheque or unconditional bank guarantee, which will be refundable (with no interest) subject to the approval of Council at the end of the maintenance period. In this period, the Applicant is liable for any part of the work, which fails to achieve the design specifications. Council shall be given full authority to make use of the bond for such restoration works within the maintenance period as deemed necessary.
(Condition Amended DA-13/208/02)
119. A report is to be submitted to the Principal Certifying authority prior to the issue of Occupation Certificate addressing the following.
- a) Field testing and evaluation of internal walls and floor insulation systems is to be carried out at a post construction stage by a suitably qualified Acoustic Engineer with MIE Australia membership or employed by a consulting firm eligible for AAAC membership to demonstrate compliance with BCA Acoustic requirements. The report is to include details of the walls and floors separating apartments. Apartments with carpet covered floors shall be identified in the report.
 - b) All noise reduction measures specified in the CC Noise Assessment reports and all other relevant conditions of consent shall be validated by a Certificate of Compliance prepared by an Acoustic Consultant. The report shall include measurement results from site attended noise audits and unmanned noise monitoring conducted over not less than three (3) consecutive 24 hours periods to demonstrate that the Development Conditions of Consent are satisfied.
120. All vehicular crossings are to be constructed prior to the issuing of any Occupation Certificate (or the completion of work or the use of the building). The applicant shall make a separate application to Council's Customer Service Counter to construct (or reconstruct) a vehicular crossing (either using Council's or own forces) to all vehicular entry points to the site. All vehicular crossings, which were shown on submitted plans, shall be in the correct location. All redundant vehicular crossings shall be removed and replaced to fit the main footpath cross-section.
- ~~121. Prior to the release of any Occupation Certificate, the following works shall be completed to Council's satisfaction at the applicant's expense to Council's satisfaction:~~

- ~~a) Dedicate at no cost to the Council that part of land required for road widening along the site's Pemberton Street frontage; and~~
- ~~b) The construction of new vertical kerb and gutter and associated footpath and landscaping paving along the entire frontage of the site to Pemberton Street; and~~
- ~~c) The asphalt sheeting of half road width including reconstruction of any damaged road pavement along the entire frontage of the site to Pemberton Street; and~~
- ~~d) The overhead power cables to this development site frontages have been undergrounded; and~~
- ~~e) The construction of underground piped drainage system where required including any other necessary engineering works where required to make the construction effective; and~~
- ~~f) The intersection of Botany Road and Pemberton Street shall be signalised with traffic lights in compliance with the requirements of the Roads and Maritime Service (RMS).~~

122.

- a) Prior to the issue of the Occupation Certificate a Traffic Management Plan prepared by a suitably qualified Traffic Engineer shall be prepared and submitted to the Principal Certifying Authority and Council addressing traffic management measures required for Kurnell Street, Herford Street and Warana Street.
- b) The Traffic Management Plan shall be submitted to Council for consideration and any traffic management measures required shall be the subject of a separate development application to Council to undertake the necessary traffic management works at no cost to Council.

123. All services (Utility, Council, etc) within the road reserve (including the footpath) affected by the proposed development shall be relocated/adjusted where required to match the proposed/existing levels. All costs are to be borne by the applicant.

124. Prior to the issue of the Occupation Certificate, a restriction on Use of Land and Prior to the issues of a Final Occupation Certificate, as required by Council's DCP for multi-unit dwellings:

- a) Mailboxes shall be provided to all units in accordance with Australia Post standards; and
- b) The name and address of the premises shall be displayed in a visible position.

125. Prior to the issue of an Occupation Certificate, a Certificate from a Registered Surveyor shall be submitted to the Principal Certifying Authority to the effect that:

- a) the maximum floor space ratio shall not exceed 0.96:1 within the B4 Mixed Use Zone, and 1.55:1 within the R3 Medium Density Residential zone and shall comply with the following maximum height restrictions:
- i) Building A1 and A2 (within the B4 zone) shall be no greater than 3 storeys or 10 metres in height.
 - ii) Building B1 (west) along Pemberton Street (within the B4 zone) shall be no greater than 3 storeys or 12.4 metres in height, with the exception that Building B3 along Pemberton Street is 4 storeys or 16.5 metres.
 - iii) Building B3 (south wing) shall be no greater than 7 storeys or 25.5 metres and part 5 storeys or 19.5 metres.
 - iv) Building B (east wing) shall be no greater than 8 storeys or 28.6 metres.
 - v) Building B2 (north east wing) shall be no greater than 4 storeys or 15.5 metres.
 - vi) Building D2 (south/west wing) shall be no greater than 7 storeys or 25.3 metres.
 - vii) Building D3 (north-west wing) shall be no greater than 7 storeys or 25.4 metres.
 - viii) Building D3 (north wing) shall be no greater than 4 storeys or 15.3 metres.
 - ix) Building D1 (east wing) along Wilson Street shall be no greater than 3 storeys or 12.1 metres.
 - x) Building E1, along Wilson Street shall be no greater than 3 storeys or 11.5 metres.
 - xi) Building E2 shall be no greater than 5 storeys or 18.7 metres.

126.

- a) An experienced Landscape Contractor shall be engaged to undertake the landscaping work and shall be provided with a copy of both the approved landscape drawing and the conditions of approval to satisfactorily construct the landscape to Council requirements.
- b) At the completion of landscaping on the site, the Applicant is required to obtain a Certificate of Compliance from the Landscape Consultant to certify that the landscaping has been installed in accordance with the Council approved landscape plan. The Certificate is to be submitted to the City of Botany Bay Council prior to the Issue of an Occupation Certificate.
- c) The contractor shall be engaged weekly for a minimum period of 26 weeks

from final completion of landscaping for maintenance and defects liability, replacing plants in the event of death, damage, theft or poor performance. After that time regular and ongoing maintenance is required.

127. The Applicant is to submit payment of a Street Tree Maintenance Bond of \$30,000.00. The duration of the Bond shall be limited to the 12 month maintenance and defects period after planting of the new street trees and inspection and written approval from Council. At the completion of the Bond period the Bond will be refunded pending a satisfactory inspection of the trees by Council. If a tree is found to be dead, pruned or dying and will not recover Council will forfeit all or part of the bond to replace or maintain the tree/s, unless the Applicant undertakes this work under instruction from Council.
128. To ensure satisfactory growth and maintenance of the landscaping, a fully automatic drip irrigation system is required in all landscape areas, installed by a qualified landscape contractor. The system shall provide full coverage of all planted areas with no more than 300mm between drippers, automatic controller and backflow prevention device and shall be connected to a recycled water source, where provided. Irrigation shall comply with both Sydney Water and Council requirements as well as Australian Standards, and be maintained in effective working order at all times.
129. Planter boxes constructed over a concrete slab shall be built in accordance with the following requirements :
- a) Ensure soil depths in accordance with Council's Landscape DCP. The base of the planter must be screeded to ensure drainage to a piped internal drainage outlet of minimum diameter 90mm, with no low points elsewhere in the planter. There are to be no external weep holes.
 - b) A concrete hob or haunch shall be constructed at the internal join between the sides and base of the planter to contain drainage to within the planter.
 - c) Planters are to be fully waterproofed and sealed internally with a proprietary sealing agent and applied by a qualified and experienced tradesman to eliminate water seepage and staining of the external face of the planter. All internal sealed finishes are to be sound and installed to manufacturer's directions prior to backfilling with soil. An inspection of the waterproofing and sealing of edges is required by the Certifier prior to backfilling with soil.
 - d) Drainage cell must be supplied to the base and sides of the planter to minimize damage to the waterproof seal during backfilling and facilitate drainage. Apply a proprietary brand filter fabric and backfill with an imported lightweight soil suitable for planter boxes compliant with AS 4419 and AS 3743. Install drip irrigation including to lawns.
 - e) Finish externally with a suitable paint, render or tile *to Council's satisfaction* ~~co-ordinate with the colour schemes and finishes of the building.~~

(Condition Amended DA-13/208/02)

- ~~130.~~ All electrical kiosks/substations, fire booster assemblies or similar utilities must be housed within the external face of the building structure ~~and or~~ screened from view from the public domain area. The utilities must be *appropriately* screened by a built screen enclosure and/or landscaping so as not to reduce the visual amenity of the development or the streetscape and public domain. The location of, and screening treatment surrounding these utilities is to be approved by Council's Landscape Architect prior to installation. ~~The 2 x electrical kiosks have not been incorporated into the building structure and stand alone on the street frontages. The fire booster assemblies are not indicated. These must be incorporated into the building structure and screened with walling and doors.~~

Electrical kiosks shall not be provided on any land to be dedicated to Council, including public parks, or on land containing easements for which Council will become the beneficiary.

(Condition Amended DA-13/208/02) (Condition Amended DA-13/208/03)

131. Prior to the issue of either an Interim or Final Occupation Certificate of the relevant stage, documentation from suitably qualified engineer shall be submitted to the Principal Certifying Authority certifying that the car parking area, loading area, turning area access ramps, driveways and internal circulation driveways have been constructed generally in accordance with the approved construction plan(s) and comply with AS2890.1, AS2890.2 and AS2890.6 requirements. All internal circulation road network, parking and loading facilities shall be clearly designated, sign posted (including "Passenger Vehicle Only", "Entry Only" and "Exit Only" signs) and line marked. Signage and line marking shall comply with the current version of Australian Standards.
132. Prior to the issue of either an Interim or Final Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
- 133.
- a) Prior to the issue of either an Interim or Final Occupation Certificate, the construction of the stormwater drainage system of the proposed development shall be completed in accordance with the approved stormwater management construction plan(s), *or as otherwise agreed by Council.*
 - b) Documentation from a practicing and qualified Civil Engineer experienced in stormwater drainage design shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed in accordance with the approved stormwater management construction plan(s)

and accepted practice.

(Condition Amended DA-13/208/02)

134. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the *Building B* development and release of damage deposit.

(Condition Amended DA-13/208/02)

135. A qualified practitioner, with a certificate of attainment in NWP331A Perform Conduit Evaluation, shall undertake a closed circuit television (CCTV) inspection and then report on the existing condition of the existing stormwater drainage infrastructure on Pemberton Street and the new stormwater pipe servicing the Kurnell Street catchment.

The camera and its operation shall comply with the following:

- The internal surface of the drainage pipe/culvert shall be viewed and recorded in a clear and concise manner,
- The CCTV camera used shall be capable to pan, tilt and turning at right angles to the pipe axis over an entire vertical circle to view the conduit joints,
- Distance from the manholes shall be accurately measured, and
- The inspection survey shall be conducted from manhole to manhole.

The written report, together with a copy of the digital video footage of the pipeline and detail maps recording which video is of which pipe shall be submitted to Council for review. Any defect/damage to the culvert/pipeline since the commencement of construction on the site shall be repaired in full to the satisfaction of Council. A written acknowledgement shall be obtained from Council (attesting this condition being appropriately satisfied) and submitted to the Principal Certifying Authority.

136. Prior to the issue of ~~the~~ *an* Occupation Certificate, documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) *or as otherwise agreed by Council* and all relevant standards.

(Condition Amended DA-13/208/02)

137. Prior to the issue of either an Interim or Final Occupation Certificate, the developer must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in Condition No. ~~69~~ *80* of this consent have been carried out and

certify that the construction meets those requirements. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australian Acoustical Consultants).

138. The name of the development, street numbers and unit numbers shall be clearly displayed with such numbers being in contrasting colour and adequate size and location for viewing from the footway and roadway. Details of street numbering shall be submitted to Council and the PCA for approval prior to the release of the Occupation Certificate.
139. Prior to the issue of any Occupation Certificate, the applicant shall carry out the following works *to Council's satisfaction and at the applicant's expense:*
- a) ~~On Botany Road and Pemberton St, the applicant shall contribute to the cost of the construction of the new Traffic Signals,~~
 - b) *Dedicate at no cost to the Council that part of land required for road widening along the site's Pemberton Street frontage*
 - c) *The construction of new vertical kerb and gutter and associated footpath and landscaping paving along the entire frontage of the site to Pemberton Street*
 - d) *The asphalt sheeting of half road width including reconstruction of any damaged road pavement along the entire frontage of the site to Pemberton Street,*
 - e) On Pemberton St, carry out all civil works as per the Road Widening and Verge Works by Mott MacDonald, dated 25 March 2015,
 - f) On Warrana St, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications,
 - g) On Warrana St, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications,
 - h) On Wilson St, adjacent to development, reconstruct existing kerb and gutter for the full length of the property in accordance with Council's Infrastructure Specifications,
 - i) On Wilson St, adjacent to development, demolish existing concrete footpath and construct new footpath as per Council's Infrastructure and Landscape Architect specifications,
 - j) On Kurnell St, adjacent to the development, reconstruct the cul-de-sac stormwater inlet pit(s) with minimum 2.4metre Lintels in accordance with Council's Infrastructure Specifications, and
 - k) On Kurnell St, adjacent to the development, reconstruct the cul-de-sac kerb and gutter for the full length of the property in accordance with Council's

Infrastructure Specifications.

Note that particular items listed above are also included within the Planning Agreement referred to in Condition 4.

(Condition Amended DA-13/208/02)

140. Prior to the issue of the Occupation Certificate, inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
141. Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- a) Restriction on Use of Land for On-Site Detention System. Refer to Appendix B of the SMTG for suggested wording,
 - ~~b) Restriction on use of land for Compensatory Flood Storage. Refer to Appendix D of the SMTG for suggested wording, and~~
 - c) Restriction on Use of Land for Stormwater Quality Improvement Device. Refer to Appendix E of the SMTG for suggested wording.

The terms of the 88 E instruments are to be submitted to Council for review and approval and Proof of registration at the Lands and Property Information Office shall be submitted to the Principal Certifying Authority and Council prior to occupation.

(Condition Amended DA-13/208/02)

142. Prior to the issue of any Occupation Certificate, the following is to be complied with:
- a) Dedicate *the public park and the Pocket Park extension* to Council and at no expense to the Council and generally in accordance with the Subdivision Drawings by Dunlop Thorpe & Co. dated 26 March 2015. ***The parcels of land to be dedicated must be remediated to be suitable for the intended use as a park, irrespective of whether the Pocket Park extension has been completed.***

(Condition Amended DA-13/208/02) (Condition Amended DA-13/208/03)
(Condition Amended DA-13/208/07)

143. The Pemberton Street public footpath shall be re-constructed in accordance with Council specifications and the final, approved public domain plan. The footpath dimensions, location, paver type and construction methods shall be in accordance with these specifications only.

Note: Construction hold points and Council inspections are required at the following points:

- (i) after formwork installation and to prior pouring the concrete blinding slab,
- (ii) at the commencement of paving works, and
- (iii) at final completion.

Council approval of public domain works is required prior issue of an Occupation Certificate.

144.

- a) That before entering a purchase/lease/occupancy agreement, or individual units are on-sold, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
- b) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as a directory board or notice board, where it can easily be observed and read by persons entering the building.

145.

- a) Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.
- ~~b) Condition Nos. 112 to 141 are pre-conditions prior to the issue of the Occupation Certificate.~~

(Condition Amended DA-13/208/02)

OPERATIONAL CONDITIONS

146. The *private* stormwater drainage system (including all pits, pipes, absorption, detention structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.

(Condition Amended DA-13/208/02)

147. New street trees shall be maintained by the Applicant/Owner/Strata Corporation for a defects and maintenance period of twelve (12) months after written approval of the street tree planting by Council. Maintenance includes twice weekly watering to sustain adequate growth, bi-annual feeding, weed removal around the base, maintenance of a 100mm deep mulch ring at all times and replacement of damaged, dead, diseased, declining or stolen plant material at any time during the 12 month period. Maintenance does not include pruning, trimming or any work to Council's street tree assets located on the Council nature strip under any circumstances at any time. This includes existing and new street trees. All pruning work is undertaken by Council only.
148. Ongoing maintenance of the grass/landscaped nature strips that are located outside the property boundaries and within the road verges shall be undertaken by the occupier, strata or owner. Maintenance includes mowing, watering and maintaining an even coverage of grass or plant material in accordance with the approved landscape plan.
149. Any subsequent Strata Subdivision must be accompanied by a formal copy of the By-Laws which shall be in accordance with the plans and documentation approved under this Consent and should also address the following matters:
- a) Responsibilities with regard to the ongoing maintenance of the building and landscaped areas at the property in accordance with the plans and details approved under Development Consent No.13/208;
 - b) Responsibilities with regard to the maintenance of artificial features at the property in accordance with the plans and details approved under Development Consent No.13/208;
 - c) Responsibilities regarding the maintenance of the car wash bays by the Owners Corporation / building owner;
 - d) Responsibilities for ensuring owners and/or tenants have adequate and hygienic disposal and collection arrangements and for ensuring the waste storage area is appropriately maintained and kept in a clean and safe state at all times in accordance the conditions of this consent;
 - e) Responsibilities to ensure that receptacles for the removal of waste, recycling etc. are put out for collection between 4.00pm and 7.00pm the day prior to collection, and, on the day of collection, being the day following, returned to the premises by 12.00 noon;
 - f) Responsibilities to ensure that wastewater and stormwater treatment devices (including drainage systems, sumps and traps) are regularly maintained in order to remain effective. All solid and liquid wastes collected from the devices shall be disposed of in a manner that does not pollute waters and in accordance with the Protection of the Environment Operations Act 1997;
 - g) Responsibilities to ensure that graffiti is removed as soon as practicable. In

this regard a graffiti management plan is to be incorporated into the maintenance plan for the development;

- h) The Owners Corporation/Executive Committee obligations under clauses 177, 182, 183, 184, 185 and 186 of the *Environmental Planning and Assessment Regulation 2000*.

150. All vehicles (including deliveries) shall enter and exit the premises to the public roads in a forward direction.

151. The landscaped areas on the property shall be installed and maintained in accordance with approved landscaped documents, the conditions of consent, Council's DCP and to Council's satisfaction at all times.

152.

- a) All parking areas shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for other purposes, e.g. storage of goods.
- b) Vehicle turning areas shall be kept clear at all times and no vehicles are permitted to park in these areas.

153. The operation of plant equipment shall comply with the City of Botany Bay's General Noise Criteria is as follows:

- a) The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration). The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.
- b) For assessment purposes, the above LAeq sound levels shall be assessed over a period of 10-15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

Note: 'Offensive noise' as defined in the *Protection of the Environment Operations Act 1997* and the *Protection of the Environment Operations (Noise Control) Regulation 2000*, (See advisory notes).

- b) Noise controls specific to the amenity of the residential neighbourhood
 - i) The La10 noise level emitted from the premises shall not exceed the background noise level in any Octave Band Centre Frequency (31.5Hz – 8kHz inclusive) by more than 5 dB between 7:00pm one

day and 7:00am the day following Monday to Sunday when measured at the boundary of any residential property; and,

- ii) Notwithstanding compliance with the above (Condition No. 72(c)(i)), the noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 7:00pm one day and 7:00am the day following Monday to Sunday.

154. Internal lighting should be left on at night to communal corridors and emergency exits enable patrolling police, security guards and passing people to monitor activities within the businesses and ground floor common areas.
155. Any new street trees shall be maintained by the Owner/Strata Corporation for 12 months after planting. Maintenance includes watering twice weekly for a minimum period of 4 months (or until established) and after that at a frequency to sustain adequate growth, bi-annual feeding with a suitable fertilizer, weed removal and replenishment of the mulched base, but does not include trimming or pruning the trees under any circumstances. Any trees that fail to thrive shall be replaced by the owner/strata corporation to Council's satisfaction at their expense.
156. All waste and recycling containers shall be stored in the designated waste storage area. The waste containers are not to be over filled and the lids kept closed at all times except when material is being put in them. The building owner shall be responsible for the following:
- a) Where waste and recycling containers need to be moved to the street;
 - b) Movement of the waste and recycling containers to the footpath for collections, and the return of waste and recycling containers to the waste storage area;
 - c) Refuse containers are to be returned to the waste storage area on the same day as the refuse is collected;
 - d) Cleaning and maintaining the waste storage area, any drainage installations and waste collection containers; and
 - e) Providing and maintaining signage and information to uses to encourage recycling.
- 157.
- a) (i) The hours of operation for the commercial tenancies located on the ground floor shall be restricted to 8am- 7pm Monday to Saturday.
(ii) No work on Sundays or public holidays.
 - b) The collection of garbage and any delivery of goods associated with the commercial tenancies shall be limited 8am-7pm Monday to Saturday.
158. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development

Application No. 13/208 dated 1 April 2015, as modified by DA-13/208/2, lodged with Council on 28 August 2015, and DA-13/208/4, lodged with Council on 13 May 2016, and DA-13/208/3, lodged with Council on 18 April 2016, and DA 13/208/5, lodged with Council on 6 September 2016, **and DA-13/208/7, lodged with Council on 11 November 2016**, and that any alteration, variation, or extension to the use, for which approval has been given, would require further consent from Council.

(Condition Amended DA-13/208/02) (Condition Amended DA-13/208/04) (Condition Amended DA-13/208/03) (Condition Amended DA-13/208/05) **(Condition Amended DA-13/208/07)**.

ADVISORY NOTE

The following conditions are imposed by the NSW Police Service:

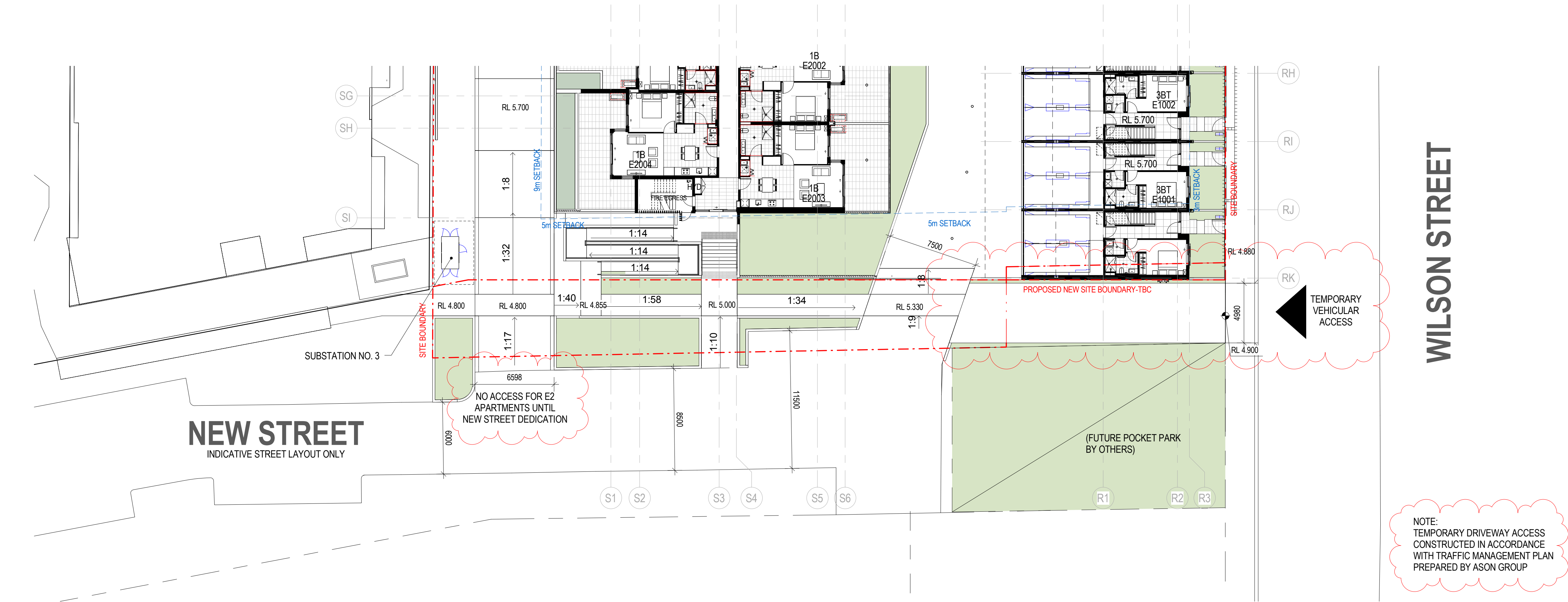
- (a) As the proposed development may be exposed to Break and Enter Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS:4806:2006 shall to be implemented to receive, hold or process data for the identification of people involved in anti-social behaviour prior to the issue of the Occupation Certificate. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation;
- (b) The CCTV system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas that are difficult to supervise. Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas. One or more cameras should be strategically mounted at entry and exit points to monitor activities around these areas (underground car park, foyer entrance);
- (c) Any proposed landscaping and vegetation should adhere to the following principles:
 - (i) Shrubs bushes, plants should remain under 900mm in height;
 - (ii) Branches or large trees should start at a height of two (2) metres and higher;

This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.
- (d) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime;
- (e) Any storage cages in the underground car park areas should not be constructed in an isolated area. CCTV cameras must cover this area, as

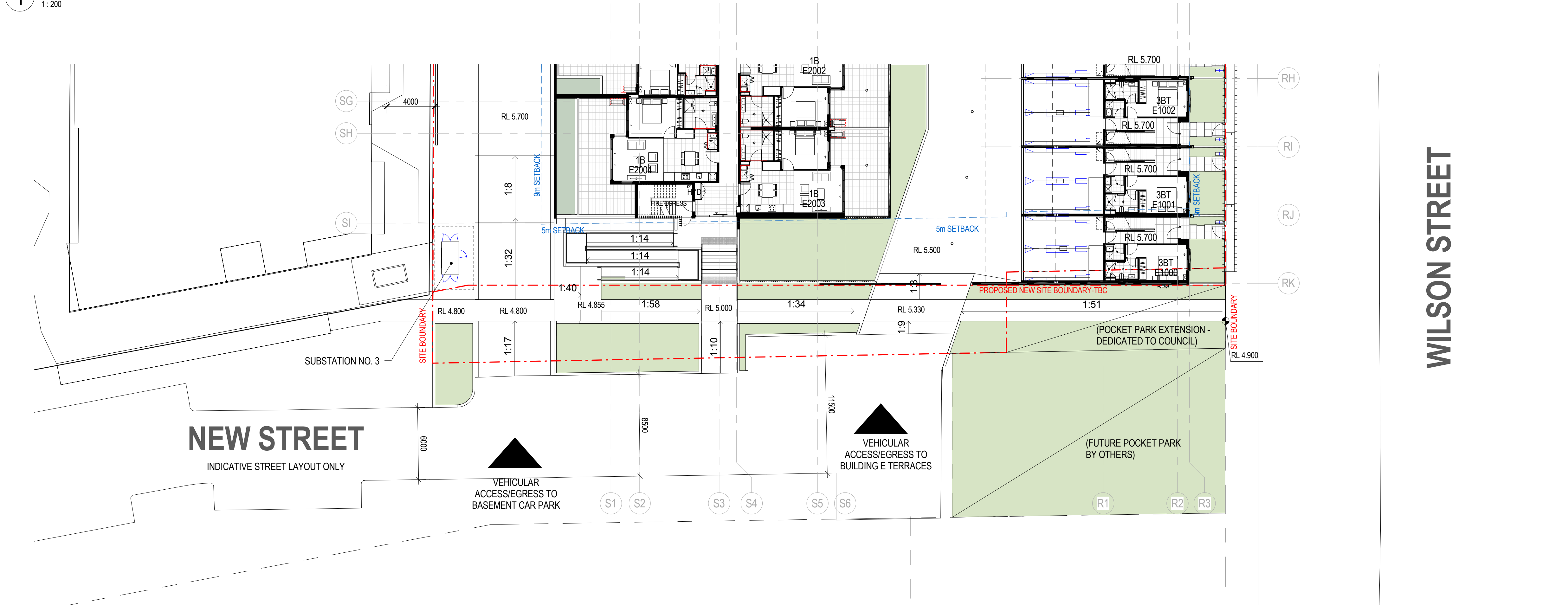
they are easy targets when they have little supervision. Solid steel housing and quality key locks should be used to prevent access.

Visitor Parking

- a) Residents are not eligible to participate in on-street resident parking schemes.



1 STAGE 1 - BEFORE NEW STREET DEDICATION
1:200



2 STAGE 2 - FINAL CONDITION
1:200

Amendments		
Issue	Description	Date
A	ISSUE FOR INFORMATION	01/04/16
B	ISSUE FOR INFORMATION	07/04/16
C	ISSUE FOR SECTION 96	13/04/16
D	ISSUE FOR SECTION 96	27/06/16
E	ISSUE FOR SECTION 96	04/07/16
F	ISSUE FOR SECTION 96	04/07/16
G	ISSUE FOR SECTION 96	16/11/16
H	ISSUE FOR SECTION 96	17/11/16
I	ISSUE FOR SECTION 96	17/11/16

REV I
TEMP. DRIVEWAY LOCATION MOVED

Planner
JBA
L7, 77 Berry St, North Sydney NSW 2059

Structure
TTW
L3, 48 Chandos St, St Leonards NSW 2065

Services
Northrop
L11, 345 George St, Sydney NSW 2000

Civil Engineer
Mott MacDonald
L10, 383 Kent Street, Sydney NSW 2000

Landscape
Tract Consultants
L8, 80 Mount Street, North Sydney NSW 2060

Traffic
Ason Group
Suite 2201, L22, 101 Grafton Street, Bondi Junction NSW 2022

BCA
Brentnall Group
Unit 32, 11-21 Underwood Road, Homebush Concord NSW 2137

BASIX
Efficient Living
13113 Lagoon St, Narrabeen, NSW 2101

Waste Management
GHD
Level 15 133 Castlereagh St, Sydney, NSW 2000

Client
Fraser's Property Australia
1 Homebush Bay Drive, Building C, L3, Rhodes NSW 2138

GROUP GSA
Group GSA Pty Ltd ABN 76 002 113 779
Level 7, 80 William St East Sydney NSW
Australia 2011 www.groupgsa.com
T +612 9361 4144 F +612 9332 3458
architecture interior design urban design landscape
nom architect M. Sheldon 3990
Project Title

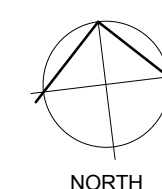
52-54 PEMBERTON ST
BOTANY BAY

Drawing Title
STAGING DIAGRAMS -
NEW STREET

Scale	1 : 200	
Drawing Created (date)	04/01/16	
Drawing Created (by)	AK	
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Project No	Drawing No	Issue

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Council Meeting

8/03/2017

Item No	9.10
Property	8 Daphne Street, Botany
	Lot 12 Sec A DP 1787
Proposal	Section 96(1A) modification to DA-14/154, which approved a conversion of a factory to a three storey boarding house. The modification seeks to reinstate deleted balconies, with privacy screens to be provided; and to delete conditions restricting the number of lodgers to 21, to enable 27 lodgers at the site.
Cost of Development	\$980,000.00 (original proposal)
Report by	Brendon Clendenning – Acting Team Leader Development Assessment
Application No	DA-14/154/2

Council Resolution

Minute 2017/034

Resolved by the Administrator:

- A. That Council resolve pursuant to Section 96(2) of the Environmental Planning & Assessment Act 1979, to modify DA-14/154, which was granted for a boarding house at 8 Daphne Street, Botany:
- 1 Modify Condition 1 to refer to the amended plans.
 - 2 Modify Condition 12 to refer to amended developer contributions.
 - 3 Delete existing Condition 13, and replace with a condition requiring that the design amendments be shown on the CC plans.
 - 4 Modify Condition 86 to refer to an increased limit on the number of people that can be accommodated at the site.
 - 5 Modify Condition 107 to refer to an increased limit on the number of people that can be accommodated at the site.
 - 6 Modify Condition 122 to refer to the current modification application.
- B. That the objectors be advised of Council's decision.
-

Officer Recommendation

- A. That Council resolve pursuant to Section 96(2) of the Environmental Planning & Assessment Act 1979, to modify DA-14/154, which was granted for a boarding house at 8 Daphne Street, Botany:
- 1 Modify Condition 1 to refer to the amended plans.

- 2 Modify Condition 12 to refer to amended developer contributions.
- 3 Delete existing Condition 13, and replace with a condition requiring that the design amendments be shown on the CC plans.
- 4 Modify Condition 86 to refer to an increased limit on the number of people that can be accommodated at the site.
- 5 Modify Condition 107 to refer to an increased limit on the number of people that can be accommodated at the site.
- 6 Modify Condition 122 to refer to the current modification application.

B. That the objectors be advised of Council's decision.

Attachments

Planning Assessment Report

Modification of Consent

Approved Site Plan

Aerial Photo

Location Plan

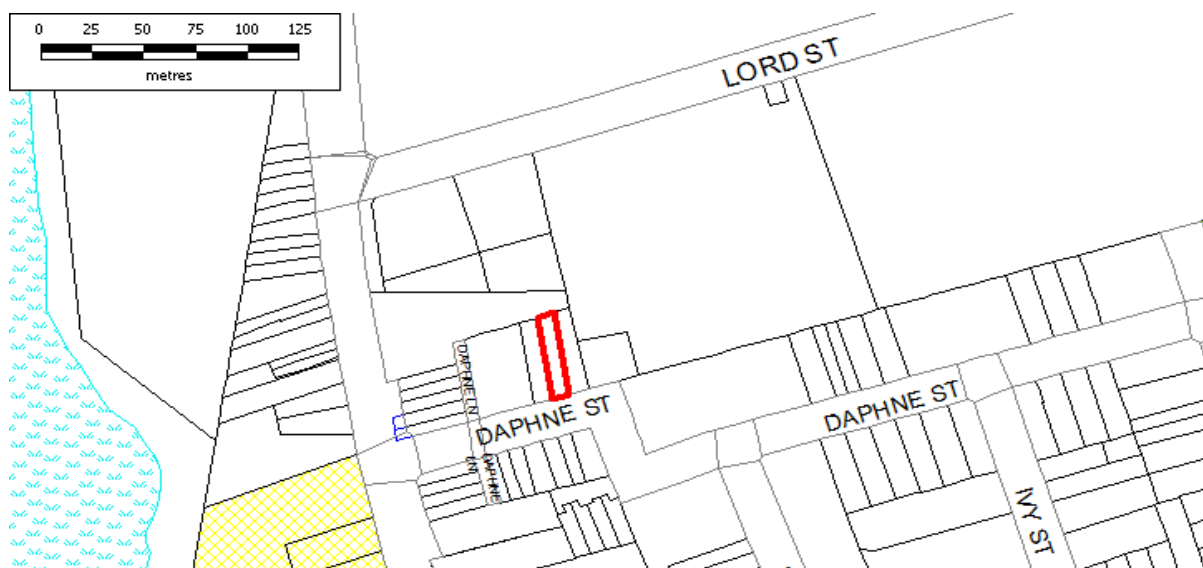


Figure 1: Locality Plan

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-14/154/2
Date of Receipt:	10 November 2016
Property:	8 Daphne Street, Botany Lot 12 Sec A DP 1787
Owner:	Mr E & Mrs S Boliaris
Applicant:	Mr A Boliaris
Proposal:	Section 96(2) modification to DA-14/154, which approved a conversion of a factory to a three storey boarding house. The modification seeks to reinstate deleted balconies, with privacy screens to be provided; and to delete conditions restricting the number of lodgers to 21, to enable 27 lodgers at the site.
Value:	\$980,000.00 (original proposal)
No. of submissions:	Eight (8) in opposition
Author:	Brendon Clendenning – Acting Team Leader Development Assessment
Date of Report:	24 February 2017

Key Issues

Development Application No DA-14/154 for the conversion of the existing factory into a three storey boarding house and associated landscaping works was approved at the Council meeting of the former City of Botany Bay Council on 22 April 2015, after initially being referred to the Development Committee on 1 April 2015. Condition 13 of the approved development placed a limit on the number of lodgers, and required amended plans to be submitted to demonstrate that additional privacy measures would be provided at the site. Further conditions which reiterated the limit on the number of lodgers were also imposed.

This subject Section 96 modification application was submitted on the 10 November 2016, and seeks amendments to conditions in order to increase the amount of tenants, incorporate some of the required privacy measures, and provide alternative privacy measures.

The Section 96 application was notified to surrounding property owners for a fourteen (14) day period from 30 November 2016 to 14 December 2016. Eight (8) submissions were received, which raise a variety of different issues, with a particular emphasis on parking.

The application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') and it is recommended that Council resolve to modify DA-14/154 generally in accordance with the proposal, with additional changes to other relevant conditions.

Recommendation

- A. That Council resolve pursuant to Section 96(2) of the Environmental Planning & Assessment Act 1979, to modify DA-14/154, which was granted for a boarding house at 8 Daphne Street, Botany:
- 1 Modify Condition 1 to refer to the amended plans.
 - 2 Modify Condition 12 to refer to amended developer contributions.
 - 3 Delete existing Condition 13, and replace with a condition requiring that the design amendments be shown on the CC plans.
 - 4 Modify Condition 86 to refer to an increased limit on the number of people that can be accommodated at the site.
 - 5 Modify Condition 107 to refer to an increased limit on the number of people that can be accommodated at the site.
 - 6 Modify Condition 122 to refer to the current modification application.
- B. That the objectors be advised of Council's decision.

Background

History

Development Application No DA-14/154 for the conversion of the existing factory into a three storey boarding house and associated landscaping works was approved at the Council meeting of the former City of Botany Bay Council on 22 April 2015, after initially being referred to the Development Committee on 1 April 2015. Condition 13 of the approved development placed a limit on the number of lodgers, and required amended plans to be submitted to demonstrate that additional privacy measures would be provided at the site. Further conditions which reiterated the limit on the number of lodgers were also imposed.

Condition 13 currently reads as follows:

13. *Prior to the issue of the Construction Certificate, provide amended plans of the following:*
- a) *delete Studio 201 balcony;*
 - b) *install privacy screen to a height of 1.8 metres on the eastern side of the balcony at Studio 306;*
 - c) *install fixed privacy screens/louvres at a 45 degree angle over W222 and W321;*
 - d) *restrict the number of tenants from 27 to 21 (including the boarding house manager) thereby seven (7) double occupancy rooms and seven (7) single occupancy rooms.*

Reasons for the conditions are outlined within the original Assessment Report and discussed in the following:

Number of tenants

“A reduction in the number of tenants accommodating the boarding house will provide a better outcome to the site as well as to the surrounding area in terms of parking. Therefore, a condition has been recommended requiring changes to the plans and Plan of Management restricting the number of tenants from 27 to 21 (including the boarding house manager)”.

It is noted that Condition 86(a) and Condition 107 also limit the number of tenants. This modification also seeks changes to these conditions.

Privacy impacts relating to Studio 306

“Concerns were raised regarding overlooking from the balcony off Studio 306 looking into the front bedroom of 10 Daphne Street. A privacy screen has been conditioned in the consent to be installed on the eastern side of the balcony to mitigate any overlooking. Additionally, concerns regarding overlooking onto their rear courtyard from the side balconies were raised. The applicant has proposed a brick extension to the eastern and western side boundary walls to prevent any negative privacy impacts from occurring”.

Privacy impacts relating to Studio 201 and Studio 302

“Visual privacy concerns were raised from the neighbour at the rear as the new opening on the rear boundary wall will allow additional overlooking into their lounge room window and courtyard. Studio 201 has a balcony proposed to extend to the rear boundary. A condition has been included in the consent recommending Studio 201 balcony to be deleted from the plans in addition to privacy screens/louvres fixed at a 45 degree angle be installed on windows at Studio 201 and 302 (W222 and W321)”.

Description of the Proposed S96 Modifications

The submitted Statement of Environmental Effects has outlined the proposed modifications as follows:

Privacy Screening

The application seeks deletion of conditions 13(a), 13(b) and 13(c).

The S96(2) seeks the retention of the balcony associated with studio 201. The balcony contributes to the amenity of the room providing natural light and ventilation and an extension of the indoor living space.

A privacy screen to a height of 1.8 metres on the northern side of the balcony with fixed privacy screens/louvres at a 45 degree angle is proposed to be installed to mitigate privacy issues. The balcony is 1m in width and does not accommodate table/chairs and is considered a low use area. Further, the balcony is associated with a single room (1 person) and will therefore have minimal acoustic impact.

The S96(2) application includes a privacy screen to a height of 1.8 metres on the eastern side of the balcony at Studio 306 as shown on amended architectural plans DA204 and DA304 prepared by KVMZV Architecture submitted with this application. Therefore, condition 13(b) has been satisfied and can be deleted.

The S96(2) application includes fixed privacy screens/louvres at a 45 degree angle over W222 and W321 as shown on amended architectural plans DA203, DA204 and DA303 prepared by KVMZV Architecture submitted with this application. Therefore, condition 13(c) has been satisfied and can be deleted.

The S96(2) seeks to include a privacy screen to a height of 1.8 metres with fixed privacy screens/louvres at a 45 degree angle is proposed to be installed on the eastern private terrace associated with studio 101.

(Note: the plans indicate that the privacy screening is provided specifically to meet the requirements of Condition 13. Therefore, this report recommends that the deleted Condition 13 be replaced with a new condition requiring the screening to be provided in accordance with the modified plans).

Number of Tenants

The application seeks deletion of condition 13(d) and accordingly modification of other conditions of consent referring to tenant numbers noting that the approved boarding house meets the planning provisions and controls contained in Division 3 – Boarding Houses of State Environmental Planning Policy (SEPP – ARH) 2009 and the Botany Bay DCP 2013 are addressed in the following table (table omitted from report).

The number of tenants is acceptable given the proposal complies with minimum room sizes for single and double rooms. The site is located 110m from a bus stop located on the Botany Bay Road and Daphne Street providing bus services on an hourly rate to Mascot, the CBD and North Sydney. The site is also situated close to Botany retail and commercial precinct which provides services and employment

The approved boarding house provides a boarding house manager that will be responsible for the operation, administration, and cleanliness of the premises and compliance of the boarding house with the approved plan of management. The boarding house complies with provisions and controls in relation to room sizes, parking and open space which restrict the number of lodgers a boarding house can contain. There are no planning grounds to suggest the boarding house cannot accommodate and operate with a maximum of 27 lodgers.

Site Description

The subject site is legally known as Lot 12 Sec A DP 1787. The site is situated on the northern side of Daphne Street between Botany Road to the west and Rose Street to the east. Daphne Lane runs parallel to Botany Road. The site has a north-south orientation with south being the front of the site (Daphne Street) and north being the rear of the site.

The site is rectangular in shape and is located in the R3 Medium Density Residential zone. The land is relatively flat with a slight fall of 200mm from the southern to northern side of the site. The site has a splayed street frontage width of 9.145 metres, a rear boundary width of 9.175

metres, an eastern boundary length of 43.02 metres and a western boundary length of 43.265 metres. It has a surveyed total area of 391.7sqm.

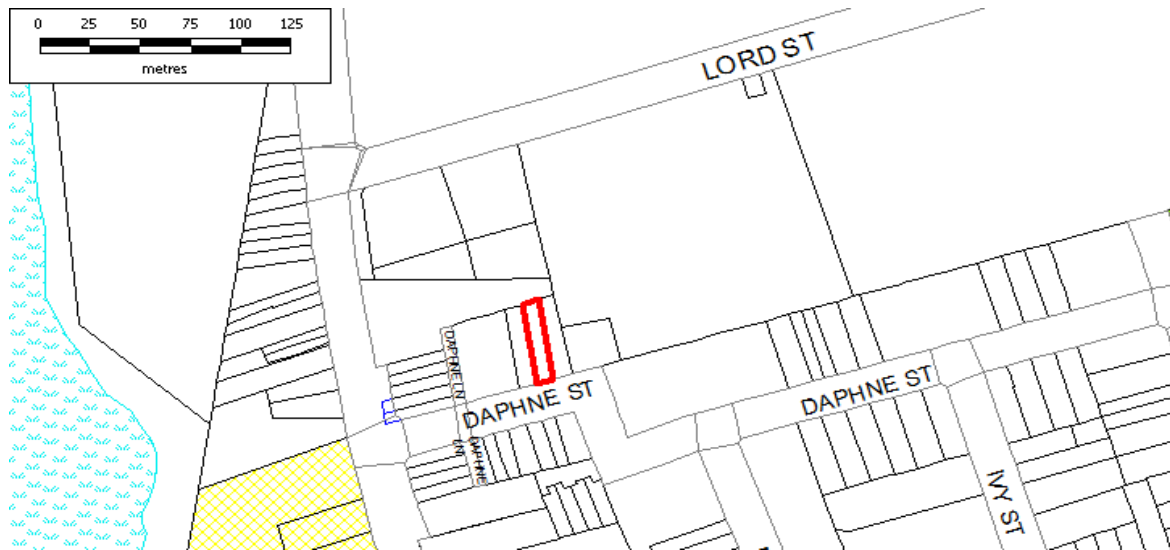


Figure 1 Locality Plan

The subject site comprises of a two storey brick warehouse building with concrete carpark and landscaping at the front of the site. The building itself consists of a flat roof pitch with numerous aluminium framed windows and doors on its front (southern) elevation. The building has a nil setback along its side and rear boundaries and was previously used as a warehouse and office use prior to its conversion into a residential dwelling. There is a large eucalyptus tree located within the front setback which is approval for removal as part of this development application. Vehicular access onto the site is carried out through the existing 5.2 metre wide crossover and driveway on the south-western sector of the site.



Figure 2: Subject site (front elevation)



Figure 3 Rear of site (as viewed from 1333 Botany Road)

The adjoining property at 10 Daphne Street is a two-storey brick warehouse building converted into a residential dwelling house. The building has a nil side setback, flat roof pitch and parking provided on the site. There are a number of aluminium framed windows on the building fronting Daphne Street and a frontage setback of approximately 11.4 metres. The entire front setback, with the exception of elevated planter beds along the south western boundary of the site, is paved concrete.

The adjoining property at 6 Daphne Street is a 3 storey dwelling house which was converted from an existing warehouse building. The building has a nil side setback along its boundaries, flat roof which is stepped down to two stories towards the rear of the site, and has a balcony with glass balustrades on the third storey. The dwelling is setback 3 metres from the front boundary alignment which is consistent with the adjoining townhouses at 2-4 Daphne Street.



Figure 4 Adjoining property at 10 Daphne Street



Figure 5 Adjoining property at 6 Daphne Street

Development surrounding the site consists of a mix of residential uses from single storey traditional brick and timber clad detached dwelling houses, three storey townhouses, warehouse buildings which were converted to residences, and residential apartment blocks. The rear of the site is bound by 3-4 storey residential apartments. The subject site is in close proximity to Botany Road local shops and Botany Public School and is accessible by public transport with the location of two bus stops within 150 metres of the site.

Referrals

Internal Referrals

The original development application was referred to Council's Development Engineer, Strategic Town Planner, Heritage Planner, Landscape Architect, Environmental Health Officer and Environmental Health Scientist for comments. Appropriate conditions were imposed on the development consent to address issues raised in their comments. Given the nature of the proposed modifications, an additional referral was sought only from Council's Development Engineer, who raised no objection to the proposal.

External Referrals

The original application was referred to the NSW Police, Sydney Water, Ausgrid, Sydney Airport Corporation Limited, and the NSW Office of Water (now Department of Primary Industries - Water). Given the nature of the proposed modifications, additional referrals were not sought from these external authorities.

It is noted that the development is Integrated Development requiring concurrence from the Department of Primary Industries – Water under Section 91(3) of the *Water Management Act 2000*, for an aquifer interference activity. This concurrence was received with the original development application.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

Section 96 Provisions

Pursuant to Section 96(2) of the *Environmental Planning and Assessment Act 1979*, Council may only modify this consent if:

- (a) Council is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which consent was originally granted and before that consent as originally granted was modified (if at all), and**

The proposal primarily seeks to make amendments which relate to conditions that were imposed on the original development consent. There are no changes to the proposed use, or the proposed building footprint.

The conditions in question were imposed in order to address specific impacts of the proposal. With respect to the number of lodgers, the proposed modifications may create some additional impacts on the locality. However, the development as modified, is not contrary to the requirements of the applicable planning instruments, and will be commensurate with what might be expected for a use of this nature, within a building of

this size. With respect to conditions relating privacy, the proposed modifications are sought to either incorporate the requirements of the conditions, or to provide an alternative privacy measures.

The proposed modification to this development would result in a development which is materially and essentially the same development as that which was originally approved.

- (b) Council has consulted with the relevant Minister, public authority or approval body (within the meaning of Division 5) in respect of a condition imposed as a requirement of a concurrence to the consent or in accordance with the general terms of an approval proposed to be granted by the approval body and that Minister, authority or body has not, within 21 days after being consulted, objected to the modification of that consent**

No such consultation was required.

- (c) Council has notified the application in accordance with the regulations, if they so require, or in accordance with Part 2 of the BBDCP 2013.**

The Section 96 application was notified to surrounding property owners for a fourteen (14) day period from 30 November 2016 to 14 December 2016.

- (d) Council has considered any submissions made concerning the proposed modification within the period prescribed by the regulations.**

Eight (8) submissions were received, which raise a variety of different issues. These issues are discussed later in this report.

S.79C(1) - Matters for Consideration – General

S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004 (“BASIX”) does not apply to the proposed development as the boarding house is a Class 3 building. However, the original development application was accompanied by BASIX Certificate No. 521361M committing to environmental sustainable measures. An amended certificate is not required.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP 55)

The provisions of SEPP 55 were considered in the assessment of the original development application. The likelihood of encountering contaminated soils on the subject site is considered to be very low given the following:

1. The site appears to have been used warehouse purposes and more recently for residential purposes;
2. The adjoining and adjacent properties are currently used for residential purposes previously adapted from warehouses;
3. The site and surrounding land were not previously zoned for purposes identified under Table 1 of the contaminated land-planning guide in SEPP 55, in particular industrial, agricultural or defence uses.
4. Excavation will not exceed 4.65 metres below the existing ground level.

The proposed modifications do not alter these conclusions, and the proposal is considered suitable in its present state for the proposed development.

State Environmental Planning Policy (SEPP) Affordable Rental Housing 2009

Part 2 Division 3 identifies specific provisions applying to boarding houses. The assessment of the original application provided a detailed consideration of this SEPP. The table below provides a consideration of the approved development, as is proposed to be modified, against the ARH SEPP 2009.

Standard	Control	Proposed	Compliance
Clause 26 (c)– Land to which division applies	R3 Medium Density Residential zone	The proposed development is located within the R3 Medium Density Residential zone.	Yes
Clause 27(3) – Development to which Division Applies	If development is on land within zone R2 Low Density Residential within Sydney Region or equivalent to that zone, proposal must be within 400m walking distance from B2 or B4 zones and accessible areas.	Site is not within the R2 zone, nevertheless, the development is within 150 metres of the Botany Road Local Centre. A regular public bus service operates along Botany Road with bus stops located near the corner of Botany Road and Daphne Street (southbound) and directly outside Botany Public School (northbound).	N/A
Clause 29 – Standards that cannot be used to refuse consent			
Clause 29(1)(c) – FSR	1.35:1 (0.85:1 LEP requirement + 0.5:1 bonus)	The development has a 512.50sqm GFA which is an FSR of 1.31:1. No additional floor space is proposed as part of this modification.	Yes
Clause 29(2)(a) – Building Height	Not more than permitted under an LEP. BBLEP 2013 Height Control 10m	Refer to assessment against BBLEP 2013.	Yes

Standard	Control	Proposed	Compliance
Clause 29(2)(b) – Landscape area	Compatible with streetscape	Landscaped area provided within the front setback is compatible with the streetscape. No changes proposed.	Yes
Clause 29(2)(c) – Solar Access	One communal area receive 3 hours of direct sunlight between 9am and 3pm in mid-winter	<p>The common living area will receive partial sunlight between 11am to 2pm through the common room doors and skylights.</p> <p>A very small portion of the common terrace located on the north eastern corner of the site will receive sunlight between 11am to 12pm. Due to the site having an north-south orientation, overshadowing from the block of apartments to the north will contribute to overshadowing on the communal open space.</p>	Acceptable. No further changes proposed
Clause 29(2)(d)- Private Open Space	<ul style="list-style-type: none"> One area at least 20m² with a minimum 3m width. Manager area – 8m² with a minimum dimension of 2.5m 	<p>The common terrace has a 25.6sqm area with a min. 4.2m width.</p> <p>The boarding house manager unit is provided on site which has been allocated an 11.1sqm private terrace adjacent to the room.</p> <p>No changes proposed.</p>	Yes
Clause 29(2)(e) - Parking	<ul style="list-style-type: none"> 0.2 parking spaces are provided for each boarding room (for sites within an accessible area) 1 space per each person employed in connection with the development and who is a resident on site. 	<p>There are 14 rooms provided with this development. Therefore Council cannot refuse this modification on the basis of inadequate parking, if a minimum of 3 (0.2 x 14 = 2.8) parking spaces are provided for the boarding rooms, with one additional space for the onsite manager, being a total of 4 parking spaces.</p> <p>There are a total of five (5) parking spaces provided on</p>	Yes, further discussion provided in relation to Part 3A of the BBDCP 2013

Standard	Control	Proposed	Compliance
		<p>site including one (1) accessible car space. Parking is provided in a car stacker form.</p> <p>One (1) of the parking spaces provided has been allocated to the boarding house manager.</p> <p>No changes proposed.</p>	
Clause 29(2)(f)- Accommodation size	<ul style="list-style-type: none"> • 12m² per single boarding room • 16m² in any other case 	<p>Single room sizes have a net living area of 12sqm (excluding bathroom and kitchen)</p> <p>Double room sizes range between 16sqm to 20.7sqm (excluding bathroom and kitchen). The rooms that were originally proposed to be double rooms were compliant when determined. These rooms remain compliant.</p>	Yes
Clause 30 – Standards for boarding houses			
Clause 30(1)(a) – Communal Living room	At least one communal living room for 5 or more rooms.	<p>One communal living room is proposed on the ground floor level.</p> <p>No changes proposed</p>	Yes
Clause 30(1)(b) – Size of rooms	No rooms more than 25m ²	None of the rooms exceed the maximum 25sqm living area (which excludes bathroom and kitchen).	Yes
Clause 30(1)(c) – Number of Lodgers	No more than 2 lodgers per room	There are 14 rooms provided, and the proposed modifications seek to enable 27 lodgers at the premises. The rooms are of a sufficient size and number to ensure there are no more than 2 lodgers per room. In addition, the Plan of Management indicates that no more than two lodgers are permitted in each room, and the existing consent requires ongoing	Yes

Standard	Control	Proposed	Compliance
		compliance with the plan of management.	
Clause 30(1)(d) – Bathroom & Kitchen Facilities	Access be provided to each lodger to use a bathroom and kitchen	All units are self-contained having their own bathroom and kitchen. A small kitchenette is also provided within the communal area.	Yes
Clause 30(1)(e) – On site Manager	Required if 20 lodgers or more	An on-site boarding house manager was accounted for within the original proposal. This is not affected by the proposed modification.	Yes
Clause 30(1)(h) – Bicycle & Motorcycle Parking	At least one per 5 boarding rooms	The proposed development provides five (5) bicycle spaces and three (3) motorcycle spaces. No changes proposed.	Yes
Clause 30(a) – Character of Local Area	Development must be compatible with the character of the local area.	The proposed development is consistent with the design, form and scale of buildings along the streetscape. The proposed additional privacy screening will not impact on this aspect of the proposal, as the new screening either responds to conditions of consent, or is not visible from the street.	Yes

Botany Bay Local Environmental Plan 2013 (BBLEP 2013)

The provisions of the BBLEP 2013 have been considered in the assessment of this Development Application and the following information is provided:

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Landuse Zone	Yes	The site is zoned R3 Medium Density Residential zone under the BBLEP 2013.
Is the proposed use/works permitted with development consent?	Yes	The proposed boarding house is permissible with Council's consent under the BBLEP 2013.
Does the proposed use/works meet the objectives of the zone?	Yes	The proposed development remains generally consistent with the objectives of the R3 Medium Density Residential zone under

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
		<p>the BBLEP 2013.</p> <p><i>Objectives of the zone include:</i></p> <ul style="list-style-type: none"> • To provide for the housing needs of the community within a medium density residential environment; • To provide a variety of housing types within a medium density residential environment; • To enable other land uses that provide facilities or services to meet the day to day needs of residents; • To encourage development that promotes walking and cycling.
<p>Does Schedule 1 – Additional Permitted Uses apply to the site?</p> <p>If so what additional uses are permitted on the site?</p>	N/A	Schedule 1 does not apply to the site.
<p>What is the height of the building?</p> <p>Does the height of the building comply with the maximum building height?</p>	<p>N/A</p> <p>Yes</p>	<p>A maximum height of 10m applies to the subject site.</p> <p>The maximum height of the boarding house is 9.910m measured from the NGL. This complies with the maximum height requirement under the BBLEP 2013. No increase in building height is proposed as part of this modification.</p>
Does the FSR of the building comply with the maximum FSR?	Yes	BBLEP 2013 prescribes a maximum FSR of 0.85:1 to the subject site. However Clause 29(1)(c) of the ARHSEPP 2009 allows for additional floor space of 0.5:1, for any site that is located within a zone in which residential flat buildings are permitted, on land that does not include a heritage item. Refer to assessment within ARHSEPP 2009. No additional floor space is proposed.
<p>Is the site within land marked “Area 3” on the FSR Map?</p> <p>If so, does it comply with the sliding scale for FSR in Clause 4.4A?</p>	N/A	The site is not located within “Area 3”.

Principal Provisions of BBLEP 2013	Compliance Yes/No	Comment
Is the land affected by road widening? (Clause 5.1 – Relevant Acquisition)	N/A	The subject site is not affected by road widening.
Is the site listed in Schedule 5 as a heritage item or within a Heritage Conservation Area?	N/A	The site is not listed as a heritage item, nor is it located within a Heritage Conservation Area. However the site is bounded at the rear by Botany Township HCA.
<p>The following provisions in Part 6 of BBLEP apply–</p> <ul style="list-style-type: none"> • 6.1 – Acid Sulfate Soils • 6.2 – Earthworks • 6.3 – Stormwater Management • 6.8 – Airspace Operations • 6.9 – Development in areas subject to aircraft noise 	<p>Yes</p> <p>Conditional</p> <p>Conditional</p> <p>Conditional</p> <p>Yes</p>	<p>The subject site is affected by Class 4 Acid Sulfate Soils. The original development application was accompanied by an Acid Sulfate Soils Assessment which satisfied Clause 6.1 of BBLEP 2013.</p> <p>The proposed excavation is acceptable, subject to conditions. No further excavation is proposed.</p> <p>The proposed stormwater drainage is acceptable, subject to conditions. No further changes are proposed.</p> <p>The proposal does not involve any penetration of the height limit set by the Civil Aviation (Buildings Control) Regulations. Relevant conditions were included within the consent.</p> <p>The subject property is located within the 25-30 ANEF (2033) Contour. The consent requires that all windows and doors be glazed and acoustically sealed in accordance with the report prepared by Koikas Acoustics Pty Ltd.</p>

The objectives and provisions of BBLEP 2013 have been considered in relation to the subject development application. The proposal is satisfactory in terms of BBLEP 2013.

S.79C(1)(a)(ii) - Provisions of any Draft Environmental Planning Instruments

There are no current Draft Environmental Planning Instruments applicable to this development.

S79C(1)(a)(iii) - Provisions of any Development Control Plan

Botany Bay Development Control Plan 2013

The development proposal has been assessed against the controls contained in the Botany Bay Development Control Plan 2013 as follows:

Part 3A – Parking and Access

Part 3A outlines minimum numerical parking requirements for individual land uses. With respect to boarding houses, Part 3A defers to the requirements of *ARH SEPP 2009*, with the relevant provision being Clause 29(2)(e). Clause 29(2)(e) is reproduced below, *inter alia*:

(2) A consent authority must not refuse consent to development to which this Division applies on any of the following grounds:

...

*(e) **parking** if:*

- (i) in the case of development in an accessible area—at least 0.2 parking spaces are provided for each boarding room, and*
- (ii) in the case of development not in an accessible area—at least 0.4 parking spaces are provided for each boarding room, and*
- (iii) in the case of any development—not more than 1 parking space is provided for each person employed in connection with the development and who is resident on site,*

The term 'accessible area' is defined within Clause 4 of the *ARH SEPP 2009*, as follows:

(1) In this Policy:

accessible area means land that is within:

- (a) 800 **metres** walking distance of a public entrance to a railway station or a wharf from which a Sydney Ferries ferry service operates, or*
- (b) 400 metres walking distance of a public entrance to a light rail station or, in the case of a light rail station with no entrance, 400 metres walking distance of a platform of the light rail station, or*
- (c) 400 **metres** walking distance of a bus stop used by a regular bus service (within the meaning of the Passenger Transport Act 1990) that has at least one bus per hour servicing the bus stop between 06.00 and 21.00 each day from Monday to Friday (both days inclusive) and between 08.00 and 18.00 on each Saturday and Sunday.*

The subject site is located within an accessible area as a bus stop is provided within 400 metres walking distance to the site.

Based on the requirements of the ARH SEPP 2009, the development would require a total of 3 spaces for tenants and one space for the manager/employee. The proposed modification does not vary this requirement, as no additional rooms are proposed.

There are a total of five (5) parking spaces provided on site including one (1) accessible car space. Parking is provided in a car stacker form. Additionally, the development proposes three (3) motorcycle spaces and five (5) bicycle spaces. One of the parking spaces is provided for the boarding house manager.

As outlined earlier, Part 3A ordinarily stipulates the minimum number of parking spaces that are to be provided for certain developments. The *ARH SEPP 2009* does not stipulate a minimum number of required parking spaces per se, but indicates a numerical requirement below which Council can refuse the application on the grounds of parking. The effect of this clause is that the Council has complete discretion to require any given number of parking spaces up to the numerical requirement of *ARH SEPP 2009*. However, if the provision of parking is equal to or in excess of that requirement, then Council has no discretion to refuse the application based on parking grounds.

It should be noted that with regard to the hierarchy of planning instruments, where there is an inconsistency between the parking provisions of the *ARH SEPP 2009* and the BBDGP 2013, the requirements of the *ARH SEPP 2009* would prevail. However, as the BBDGP 2013 defers to the *ARH SEPP 2009* on this matter, there is no such inconsistency.

With respect to Condition 13(d), the original assessment report indicates that the condition was recommended to provide a better outcome for the locality in terms of parking. Further, there is nothing within *ARH SEPP 2009*, which prevents Council from imposing a condition which limits the number of tenants able to be accommodated by the development. Therefore, the imposition of Condition 13(d) was not contrary to the *ARH SEPP 2009*.

However, the current application seeks removal of Condition 13(d). Council cannot refuse to delete condition 13(d) on the basis that it will result in detrimental parking impacts within the locality. Consequently, it is recommended that Condition 13(d) be deleted.

Part 3C- Access and Mobility

An Access Report/Statement of Compliance was submitted with the original application. The report assessed the capability of the proposal to achieve the spatial requirements to provide access for people with a disability in accordance with AS-1428 and AS-2890.6 of the BCA. Relevant conditions were included within the consent relating to access.

Part 3F – Tree Management

The site comprises of one existing mature Eucalyptus tree within the front setback of the property. The tree is in decline and therefore not covered by a Tree Preservation Order. The development provides for one Smooth bark apple tree within the front setback and

one Frangipani tree within the rear. Consent was granted to the removal of the mature Eucalyptus tree subject to conditions imposed in the consent.

Part 3I – Crime Prevention, Safety and Security

Part 3I relates to the principles of Crime Prevention Through Environmental Design (CPTED), which are aimed at minimising the risk of crime through design measures.

The original application was referred to NSW Police for comment. The Police categorised the boarding house as a Medium Risk on the crime risk scale and recommended conditions were included within the consent.

Access into the premise will be carried out through a key/swipe which will be provided to all boarders upon start of tenancy. Suitable conditions have been imposed on any consent granted requiring compliance with the amended Plan of Management detailing security arrangements for the premises as well as details of ongoing maintenance of the boarding house.

The design of the original proposal was considered to respond appropriately to the CPTED principles, both for the approved number of tenants and that originally proposed (which is also that currently proposed by this modification).

The additional privacy screening is required by conditions, and the retention of the balcony to Studio 201 does not create any undue adverse impacts on the security of the premises, and is not contrary to CPTED principles. It is acknowledged that the privacy screening will reduce some opportunities for passive surveillance to the common terrace. However, the privacy screening provides an important function in providing a visual separation between the communal areas, and the individual rooms. Furthermore, the terrace remains well connected to the communal living area.

Part 7A – Boarding Houses

Control	Proposed	Complies
7A.4.1 General Requirements		
C5 Boarding houses are to be located in close proximity to public transport i.e. within 400 metres.	The site is located within 150m from Botany Road Local Centre and is in close proximity to public transport (i.e. bus stops on Botany Road).	Yes
C8 A Plan of Management (POM) is required to be submitted.	The POM that was submitted with the application is incorporated into the consent. Conditions require ongoing compliance with the POM.	Yes
C13 An acoustic report prepared by a suitably qualified acoustical consultant is required.	An acoustic assessment prepared by Koikas Acoustics Pty Ltd dated 28 April 2014 was	Yes

	submitted as part of the original application and is incorporated into the consent.	
	No changes proposed.	
C14 An application for a boarding house incorporating 75 or more bedrooms is to be supported by a Traffic Report prepared by a suitably qualified person.	The development has 14 rooms which includes one (1) room for an on-site boarding house manager.	N/A
C18 The gross floor area of a bedroom is to be at least: <ul style="list-style-type: none"> (i) 12m² (including 1.5m² required for wardrobe space); (ii) 4m² when a second adult occupant is intended (which must be clearly shown on plans); plus (iii) 2.1m² for any ensuite (which must comprise a hand basin and toilet); (iv) 0.8m² for any shower in the ensuite; (v) 1.1m² for any laundry (which must comprise a wash tub and washing machine); and (vi) 2m² for any kitchenette (which must comprise a small fridge, cupboards and shelves and microwave). 	<ul style="list-style-type: none"> (i) One (1) 12sqm single occupancy room (Studio 201); (ii) Thirteen (13) double occupancy rooms with a size varying between 16sqm to 20.7sqm. Number of double occupancy rooms subject to change per condition; (iii) & (iv) All rooms are provided with ensuite & shower that meet Council's requirements. (v) Rooms consist of laundry facilities; (iv) All rooms comprise a kitchenette. The communal area also consists of a small kitchenette. <p>The proposal remains compliant, despite the increase in tenants.</p>	Yes
C20 At least 1 of the bedroom provided must incorporate disabled access, meeting the requirements under the BCA.	<p>There are two (2) accessible rooms (Studio Room 102 and Studio Room 103) which meet the disabled access requirements under the BCA.</p> <p>No changes proposed.</p>	Yes
C22 The minimum ceiling height of any bedroom containing double bunks is 2.7 metres.	The ceiling heights are 2.69m however none of the rooms will consist of double bunks.	Yes

	No changes proposed.	
C23 30% of all bedrooms are to have access to private open space with a minimum area of 4m ² in the form of a balcony or terrace area.	The approved development provided for 5 x 4sqm balconies, which equates to 36% of the total 14 bedrooms. The reintroduction of the balcony to Studio 201 will increase this portion to 43% if the 14 bedrooms.	Yes
C25 A communal kitchen is to be provided with a minimum area that is 6.5m ² or 1.2m ² for each resident occupying a bedroom without a kitchenette.	A communal kitchenette is provided within the communal living space. All rooms are self-contained. No changes proposed.	Yes
C26 The communal kitchen is to contain: (i) One (1) sink for every 6 people , or part thereof, with running hot and cold water; and (ii) One (1) stove top cooker for every 6 people, or part thereof, with appropriate exhaust ventilation.	Communal kitchen provides a sink within a storage area near the underside of the staircase. There are no stove cookers within the communal kitchen as each room is self-contained with both stove top and kitchen sink. No changes proposed.	Yes- Acceptable
C27 The communal kitchen is to contain, for each resident occupying a bedroom without a kitchenette: (i) 0.13 cubic metres of refrigerator storage space; (ii) 0.05 cubic metres of freezer storage space; and (iii) 0.30 cubic metres of lockable drawer or cupboard storage space.	Each room is self-contained with their own fridge/freezer/ cupboard space. No changes proposed.	Yes- Acceptable
C28 An indoor communal living area with a minimum area of 20m ² or 1.25m ² per resident with a minimum width of 3 metres is to be provided.	Council requires 33.75sqm of communal living space within the development for 27 residents. The proposed communal living area has a GFA of 35.1sqm which is compliant. No changes proposed.	Yes
C32 Communal open space is to be provided with a minimum area of 20m ² and a minimum	Communal open space is provided in the form of a	Yes

dimension of 3 metres.	common terrace on the north eastern corner of the site. The space has an area of 25.6sqm.	
	No changes proposed.	
C35 Communal bathroom facilities accessible to all residents 24 hours per day are provided with at least: <ul style="list-style-type: none"> (i) One (1) wash basin, with hot and cold water, and one toilet for every seven (7) residents, or part thereof, for each occupant of a room that does not contain an en suite; and (ii) One shower or bath for every seven (7) residents, or part thereof, for each occupant of a room that does not contain a shower. 	Each room is provided with an en suite. There are no communal bathroom facilities provided within the development. The en suite includes both shower and wash basins. No changes proposed.	N/A
C36 Laundry facilities are to be provided and are to include: <ul style="list-style-type: none"> (i) One (1) 5kg capacity automatic washing machine and one domestic dryer for every twelve (12) residents or part thereof; and (ii) At least one large laundry tub with hot and cold running water. 	Laundry facilities are provided in each room. No changes proposed.	Yes

Part 8- Character Precinct

The character of the local area has been considered within the assessment against the *ARH SEPP*.

S.79C(1)(a)(iv) - Provisions of Regulations

Regulation 92 has been considered and there are no additional considerations relevant to this modification.

S.79C(1)(b) - Likely Impacts of Development

It is considered that the proposed development will have no significant adverse environmental, social or economic impacts in the locality.

S.79C(1)(c) - Suitability of the site

The subject site is not known to be affected by any natural hazards or other site constraints that are relevant to the proposed modification. The provision of parking that is provided to the site is consistent with the requirements of the *ARH SEPP 2009*. Accordingly, it is considered that the site remains suitable to accommodate the development.

S.79C(1)(d) - Public Submissions

In accordance with Part 2 of Botany Bay DCP 2013 – Notification and Advertising the development application was notified to surrounding property owners for a fourteen (14) day period from 30 November 2016 to 14 December 2016. A site notice was also erected at the commencement of this period. A total of eight (8) objection letters were received, with the following concerns being raised:

- *Insufficient parking provided for tenants, residents of Daphne Street, and visitors; traffic congestion and generation attributed to the development. Objections note that:*
 - *The locality is used for parking for nearby schools, childcare centres, and offices, as well as the airport.*
 - *There may be an inclination for residents to utilise off-street parking in preference to the car stacker.*
 - *The developer has indicated that the boarding house will be marketed to professionals and tradespeople, who are likely to own a vehicle.*
 - *There is potential for the car stacker to malfunction.*

Comment:

As outlined within the assessment of Part 3A of the BBDCP 2013, the development complies with the *ARH SEPP 2009* and therefore with car parking requirements within the BBDCP 2013. A parking space will be provided to the boarding house manager and the remaining 4 spaces will be provided for tenants in accordance with their lease agreement. Additionally, three motorcycle spaces and five bicycle spaces have been proposed as part of the development. No visitor parking has been provided.

It is acknowledged that the existing land uses in the area generate traffic and congestion, particularly during the peak hours. However, Council is unable to require additional parking beyond the requirements of the *ARH SEPP 2009*. Council also cannot refuse the modification to delete the condition limiting the number of lodgers, on the basis of inadequate parking.

An assessment of parking at this site requires a consideration of the parking that is provided on the site, in the context of the *ARH SEPP 2009*. The proposal provides one parking space above that required by the *ARH SEPP 2009*, as well as providing three motorcycle spaces and five bicycle spaces. Therefore, the overall impact of the development on parking in the locality is less than the potential impacts had the development provided only the minimum parking provision.

Whilst the car stacker is a mechanical device and subject to failure, the maintenance and upkeep of the car stacker is a matter for the manager or owner of the boarding house. This is no different to the maintenance and upkeep of a roller door, or lift in a residential flat building. Council is unable to refuse the application on this basis.

- *Given the existing social housing in the locality, further affordable housing is not necessary.*

Comment: There are no specific provisions which limit the quantity of affordable housing that is located within a given area. Further, there is no evidence to indicate that there is an oversupply of affordable housing within this locality, and no indication that the oversupply is of a magnitude to warrant refusal of the modification application.

- *The proposal has not correctly identified the location of the building at 10 Daphne Street within the side elevation, and has not accounted for the approved development at this property.*

Comment: It is agreed that the outline of 10 Daphne Street shown on the eastern elevation has not accounted for the approved development at this property. The survey that was submitted with the original application was prepared before the works were undertaken. However, Council officers have viewed the site as part of the assessment of both the original application and the subject application. The nature of the proposed modification is such that the inaccurate depiction of No. 10 Daphne Street on the plans does not influence the assessment of the application.

- *The proposal seeks to revert to the original application which may not have been supported by the elected Council: "it is opportunistic and seeks to take advantage of the current council amalgamation transition and the reduced likelihood that a Council meeting will be held to consider the proposal".*

Comment: The functions of the former elected City of Botany Bay Council are now carried out by the Administrator of Bayside Council. There is nothing which prevents the lodgement of this modification application, and there is no mechanism which enables this application to be considered by the former Council. However, the application will be considered and determined by the Administrator at a public Council meeting.

Question as to whether a new Development Application should have been lodged, rather than a Section 96 application.

Comment: A consent authority may grant consent to a modification application if the consent authority is satisfied that the development consent as modified is substantially the same development as the development for which consent was originally granted. The applicant is also able to lodge a new application; however, as outlined elsewhere in this report, it is considered that this application is for substantially the same development as the development for which consent was originally granted and therefore suitable for consideration pursuant to Section 96 of the *EPAA Act 1979*.

- *Development potential – concerns were raised from the owners of No.10 Daphne Street, that the DA currently in place for further development at 10 Daphne Street might not be able to proceed as a consequence of the proposal, or that a future modification seeking a taller pitched roof, to the maximum height limit, would be undermined as a consequence of the proposal.*

Comment: The granting of development consent on one site will have no effect on the validity of any development consents on any other site. It is understood that information had been provided to the owners of No.10 Daphne Street, outlining the requirements for the retention of solar access at neighbouring properties. These requirements, along with any other relevant requirements, will apply to any development at No.10 Daphne Street, whether through a new application, or a modification to an existing consent.

- *The Car stacker demonstrates the site is not suitable for scale of development*

Comment: The proposal complies with Clause 29(e) of the ARHSEPP 2009 and Council's car parking requirements. The car stacker is a space saving device that provides additional front setback to the site. The car stacker is an acceptable alternative to levelled stacked parking. Manoeuvring in and out of the car stacker can be done within the front setback without creating any traffic issues.

- *Safety and security concerns, anti-social behaviour, and social impacts to the area*

Comment: While these concerns may be mitigated by adhering to the Plan of Management requirements on-site, issues relating to off-site social interaction and behaviour fall within the realm of other agency responsibilities and there is no evidence warranting refusal of the application on these grounds.

- *Loss of property values and devaluation of the street*

Comment: The property values within the locality are unable to be considered as part of a planning assessment. Notwithstanding, there is no empirical evidence to indicate that the proposed modification will affect property values at nearby properties.

- *Lack of emergency egress points. Request that Council raise this concern with an independent building company due to lack of control during private certification.*

Comment: Any non-compliances with the Building Code of Australia (BCA) would be assessed and identified by the PCA as part of the Construction Certificate assessment. The certifier would then require compliance with the particular BCA requirement either through modifications to the plans or through an approved "alternate solution" prepared by a suitably qualified Fire Safety Engineer.

- *"(The development) is being utilised as an avenue to provide self-contained residential units which sidestep minimum apartment sizes".*

Comment: Boarding houses and residential flat buildings are two separately defined land uses recognised within the NSW planning system. There are different requirements for boarding houses and residential flat buildings, and one notable difference is that boarding houses cannot be strata subdivided, and sold on to individual owners. Boarding houses are intended to be affordable (i.e. less expensive than private rental accommodation), and

it is not unusual for boarding houses to be characterised by less space and less amenities per resident.

- *Privacy concerns relating to the overlooking from windows and balconies into adjoining property. One submission suggests/seeks for the rear boundary wall to be increased in height from 2.8 metres to 4 metres.*

Comment: The subject modification seeks to incorporate amendments required by Condition 13 of the consent, specifically for the purpose of minimising privacy impacts. The introduction of a privacy screen at Studio 201, instead of deletion of the balcony, is acceptable for the reasons outlined in the assessment report.

The increase in height of the wall is not appropriate given the impacts to solar access at the subject site.

- *Noise pollution from the rear courtyard to living areas and master bedroom at neighbouring property. Request that the use of that area be prohibited after 8:00pm.*

Comment: The walls that surround the courtyard will provide a degree of acoustic screening to the development. The terrace as a relatively small space, and it would not be reasonable to restrict its use.

- *Impact on basement support structures and ground water ingress*

Comment: Concerns were raised regarding measures relating to ground water ingress from excavation of the development. Concerns were raised that any subterranean activity for the proposed development could have a significant impact on the water-proofing and prevention of ground water into neighbouring properties. The original application was referred to the NSW Office of Water for comment as excavation for the car stacker will penetrate the ground water. Relevant conditions provided by Council's Environmental Health Scientist were recommended in the consent requiring appropriate measures and procedures to removing groundwater. The proposed modifications will not create any further impacts in this regard.

- *Parking restrictions are not currently enforced in Daphne Street.*

Comment: The enforcement of parking restrictions within the surrounding locality cannot influence the assessment of the proposed modification. Further, Council is unable to refuse this application for reasons related to parking.

- *"Botany Council had made requirements of the development which covered some but not all my concerns and even then these were a compromise, I can't believe the developer can simply resubmit an application to have those requirements reversed. These were minimal changes Council required after community consultation, how can the Developer simply ask these be undone?"*

Comment: A development consent is able to be modified, subject to the requirements of Section 96 of the *EPAA Act 1979*. Further, although the *ARH SEPP 2009* does not prevent Council from imposing conditions designed to address parking issues, the *ARH SEPP 2009* does prevent Council from refusing an application for reasons related to parking. The requirements of Section 96, and the *ARH SEPP 2009*, are discussed elsewhere within this report.

- *Inappropriate location for a boarding house*

Comment: Concerns were raised regarding the suitability of building a boarding house in the area. The proposal is permissible in this location. Other specific objections relating to the suitability of the site are discussed above.

S.79C(1)(e) - Public interest

Granting approval to the proposed development will have no significant adverse impact on the public interest.

Section 94 Contributions

The approved development is subject to contributions under the Botany Bay Section 94 Contributions Plan 2005- 2010. This plan continues to apply to this development, despite the introduction of new contributions plan since the approval of the original consent.

The Botany Bay Section 94 Contributions Plan 2005- 2010 does not provide specific calculations for boarding houses, therefore the contributions for boarding houses are calculated in line with the 'per worker' calculations for employment development. The total contribution was calculated to be:

Total Contribution: $\$3,088 \times 21$ (occupiers) = \$64,848

Therefore, Condition 12 currently requires the following contributions:

• Community Facilities:	\$7,329.00
• Open Space and Recreational:	\$51,660.00
• Administration:	\$1,113.00
• Shopping Centre Improvements (City Wide):	\$4,746.00
Total	\$64,848.00.

With the additional 7 lodgers, the contribution is now calculated to be:

Total Contribution: $\$3,088 \times 28$ (occupiers) = \$86,464

The amended individual contributions are as follows:

• Community Facilities:	\$9,772.00
• Open Space and Recreational:	\$68,880.00
• Administration:	\$1,484.00
• Shopping Centre Improvements (City Wide):	\$6,328.00
Total	\$86,464.00.

It is recommended that Condition 12 be modified to incorporate the revised contribution.

Conclusion

Development Application No DA-14/154 for the conversion of the existing factory into a three storey boarding house and associated landscaping works was approved at the Council meeting of the former City of Botany Bay Council on 22 April 2015, after initially being referred to the Development Committee on 1 April 2015.

This subject Section 96 modification seeks amendment to conditions in order to increase the amount of tenants, incorporate some of the required privacy measures, and provide alternative privacy measures.

The Section 96 application was notified to surrounding property owners for a fourteen (14) day period and eight (8) submissions were received, which raise a variety of different issues.

The application has been assessed in accordance with the relevant requirements of the *Environmental Planning and Assessment Act 1979* ('EP&A Act') and it is recommended that Council resolve to modify DA-14/154 generally in accordance with the proposal, with additional changes to other relevant conditions.

Attachment

Schedule 1 – Conditions of Consent

RECOMMENDATION

- A. That Council resolve pursuant to Section 96(2) of the Environmental Planning & Assessment Act 1979, to modify DA-14/154, which was granted for a boarding house at 8

Daphne Street, Botany:

- 1 Modify Condition 1 to refer to the amended plans.
- 2 Modify Condition 12 to refer to amended developer contributions.
- 3 Delete existing Condition 13, and replace with a condition requiring that the design amendments be shown on the CC plans.
- 4 Modify Condition 86 to refer to an increased limit on the number of people that can be accommodated at the site.
- 5 Modify Condition 107 to refer to an increased limit on the number of people that can be accommodated at the site.
- 6 Modify Condition 122 to refer to the current modification application.

B. That the objectors be advised of Council's decision.

Premises: 8 Daphne Street Botany

DA No: DA-14(154)

SCHEDULE OF CONSENT CONDITIONS

GENERAL CONDITIONS

1. The development is to be carried in accordance with the following plans as amended and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent.

Drawing N°	Author	Dated Received
DA100 Rev D- Notes & Legends	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA101 Rev D- Site Analysis Plan	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA102 Rev D- Site Plan	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA103 Rev D- Landscape Calculation Plan	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA104 Rev D- Landscape Plan	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA105 Rev D- Landscape Details & Notes	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA106 Rev D- Stormwater Concept Plan	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA200 Rev D- Existing Floor Plans- Demolition Plans-	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA201 Rev D- Basement and Ground Floor Driveway/Entry Plan	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA202 Rev D E - Ground Floor Plan	KVMZ Architecture	Dated 19 January 2015 2 September 2016; Received 20 January 2015

DA203 Rev D E - First Floor Plan	KVMZ Architecture	10 November 2016 Dated 19 January 2015; 2 September 2016; Received 20 January 2015
DA204 Rev D E - Second Floor Plan	KVMZ Architecture	10 November 2016 Dated 19 January 2015; 2 September 2016; Received 20 January 2015
DA205 Rev D- Roof Plan	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA301 Rev D - Southern Elevation	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA302 Rev D - Western Elevation	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA303 Rev D E - Northern Elevation	KVMZ Architecture	10 November 2016 Dated 19 January 2015; 2 September 2016; Received 20 January 2015
DA304 Rev D E - Eastern Elevation	KVMZ Architecture	10 November 2016 Dated 19 January 2015; 2 September 2016; Received 20 January 2015
DA401 Rev - Section	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA402 Rev D E - Section	KVMZ Architecture	10 November 2016 Dated 19 January 2015; 2 September 2016; Received 20 January 2015
DA403 Rev D - Section	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA404 Rev D- Section	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA405 Rev D- Section	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA406 Rev D- Section	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA407 Rev D- Section	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA601 Rev D- Accessible Studio: Detailed Plans	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA602 Rev D- Accessible Ensuite- 102 (Studio 103- Similar Rotated): Detailed Plan	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA603 Rev D Accessibility Details	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA604 Rev D- Room Layout Studios 201 & 202: Detailed Plan	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA605 Rev D- Vehicular Driveway Sectional Profile	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015

DA701 Rev D- Window Schedule	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA702 Rev D-Door Schedule	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA703 Rev D- Door Schedule	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA704 Rev D- Door Signage and Fittings and Furniture Schedule	KVMZ Architecture	Dated 19 January 2015; Received 20 January 2015
DA 705 Rev A0 External Finishes Schedule	KVMZ Architecture	Dated 25 June 2014; Received 8 July 2014

Reference Document(s)	Author	Date Received
Geotechnical Investigation	GDK Keighran Geotechnics	Dated 16 April 2014; Received 8 July 2014
Waste Management Plan	Prepared by Angelo Boliaris	Dated 26 June 2014; Received 8 July 2014
BASIX Certificate No. 521361M	Prepared by Barlow Energy Efficiency Services	Dated 25 June 2014; Received 8 July 2014
Acid Sulphate Soil Investigation	Pacific Environmental Australia Pty Ltd	Dated 23 February 2014; Received 8 July 2014
Statement of Compliance Access for People with a Disability	Accessible Building Solutions	Dated 2 December 2013; Received 8 July 2014
ABSA Nathers Certificate	Barlow Energy Efficiency Services	Dated 25 June 2014; Received 8 July 2014
Acoustic Assessment Report	Koikas Acoustics Pty Ltd	Dated 28 April 2014; Received 8 July 2014
Plan of Management	Chapman Planning Pty Ltd	Dated 7 October 2014; Received 8 October 2014
Statement of Environmental Effects	Chapman Planning Pty Ltd	Dated 27 June 2014; Received 8 July 2014
Letter of support	Boardingstudios.com.au	Dated 7 October 2014; Received 7 October 2014
Comments relating to Car Stacker Construction	GDK Keighran Geotechnics	Dated 20 February 2015; Received
Car stacker excavation details	Michael Ell Consulting Engineers Pty Ltd	Dated 20 February 2015; Received 20 February 2015
Combined Phase 1/Phase 2 Environmental Site Assessment	Alliance Geotechnical	Dated 11 February 2015; Received 11 February 2015

No construction works (including excavation) shall be undertaken prior to the issue to the Construction Certificate.

2. This Consent relates to land in Lot 12 Sec A DP 1787 and, as such, building works must not encroach on to adjoining lands or the adjoining public place.

3. All building work must be carried out in accordance with the provisions of the Building Code of Australia.
4. The consent given does not imply that works can commence until such time that: -
 - a) Detailed plans and specifications of the building have been endorsed with a Construction Certificate by: -
 - i) The consent authority; or,
 - ii) An accredited certifier; and,
 - b) The person having the benefit of the development consent: -
 - i) Has appointed a principal certifying authority; and,
 - ii) Has notified the consent authority and the Council (if the Council is not the consent authority) of the appointment; and,
 - iii) The person having the benefit of the development consent has given at least 2 days notice to the Council of the person's intention to commence the erection of the building.

CONDITIONS IMPOSED BY EXTERNAL AUTHORITY

5. The following conditions are imposed by the Sydney Airport Corporation Limited (SACL) and must be complied with:
 - a) The PROPERTY DEVELOPMENT at 8 Daphne Street Botany lies within an area defined in schedules of the Civil Aviation (Buildings Control) Regulations, which limit the height of structures to 25 feet (7.62 metres) above existing ground height (AEGH) without prior approval of this Corporation.
 - b) The Civil Aviation Safety Authority (CASA) have no objection to the erection of the building to a height of 15.685 metres above Australian Height Datum (AHD).
 - c) The approved height is inclusive of all lift over-runs, vents, chimneys, aerials, TV antennae, construction cranes etc.
 - d) Should you wish to exceed 15.685 metres above existing ground height, a new application must be submitted. Should the height of any temporary structure and/or equipment be greater than 25 feet (7.62 metres) above existing ground height (AEGH), a new approval must be sought in accordance with the Civil Aviation (Buildings Control) Regulations Statutory Rules 1988 No. 161.
 - e) Construction cranes may be required to operate at a height significantly higher than that of the proposed controlled activity and consequently, may not be approved under the Airports (Protection of Airspace) Regulations. SACL advises that approval to operate construction equipment (ie cranes) should be obtained prior to any commitment to construct. Information required by SACL prior to any approval is to include:

- i) the location of any temporary structure or equipment, ie. construction cranes, planned to be used during construction relative to Mapping Grid of Australia 1994 (MGA94);
 - ii) the swing circle of any temporary structure/equipment used during construction;
 - iii) the maximum height, relative to Australian Height Datum (AHD), of any temporary structure or equipment ie. construction cranes, intended to be used in the erection of the proposed structure/activity;
 - iv) the period of the proposed operation (ie. construction cranes) and desired operating hours for any temporary structures.
- f) Any application for approval containing the above information, should be submitted to this Corporation at least 35 days prior to commencement of works in accordance with the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, which now apply to this Airport.
- g) Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed “controlled activity” and is punishable by a fine of up to 50 penalty units.
- h) The height of the prescribed airspace at the site is 51 metres above Australian Height Datum (AHD). In accordance with Regulation 9 of the Airports (Protection of Airspace) Regulations Statutory Rules 1996 No. 293, “a thing to be used in erecting the building, structure or thing would, during the erection of the building, structure or thing, intrude into PANS OPS airspace for the Airport, cannot be approved”.
- i) The area in which the proposed development is located is in the vicinity of Sydney (KS) Airport. To minimise the potential for bird habitation and roosting, the Proponent must ensure that non-bird attracting plant species are use in any landscaping design.
- j) Any landscaping design must minimise the attractiveness for foraging birds i.e. site is kept clean regularly, refuse bins are covered, and detention ponds are netted.
- k) All trees to be planted shall not be capable of intruding into the Obstacle Limitation Surface when mature.
- l) Current planning provisions (s. 117 Direction 3.5 NSW Environmental Planning and Assessment Act 1979) for the assessment of aircraft noise for certain land uses are based on the Australian Noise Exposure Forecast (ANEF). The current ANEF for which Council may use as the land use planning tool for Sydney Airport was endorsed by Airservices Australia on 13 March 2009 (Sydney Airport 2029 ANEF).
- m) Whilst there are currently no national aviation standards relating to defining public safety areas beyond the airport boundary, it is recommended that

proposed land uses which have high population densities should be avoided.

6. The following conditions are imposed by NSW Office of Water

- a) Should the proposed excavation into groundwater table result in the requirement for a significantly greater predicted inflow and subsequent dewatering volume, the NSW Office of Water may require an authorisation to be obtained for the activity.

7. The following conditions are imposed by Ausgrid:

- a) You are required to make a formal submission to Ausgrid by means of a duly completed Preliminary Enquiry and/or Connection Application form, to allow Ausgrid to assess any impacts on its infrastructure and determine the electrical supply requirements for the development (e.g. whether a substation is required on site). In general, works to be considered by Ausgrid include, but are not limited to, the following:
 - i) Changes in electrical load requirements;
 - ii) Changes to Ausgrid's infrastructure (i.e. asset relocations, decommissioning substations etc);
 - iii) Works affecting Ausgrid's easements, leases and/or right of ways;
 - iv) Changing the gradients of any roads or paths;
 - v) Changing the level of roads or foot paths;
 - vi) Widening or narrowing of roads;
 - vii) Closing roads or laneways to vehicles;
 - viii) In all cases, Ausgrid is to have 24 hour access to all its assets.

You are to ensure that the proposed works do not contravene Ausgrid's technical standards and statutory requirements, in regards to the safe and reliable operation and maintenance of Ausgrid's network.

8. The following conditions are imposed by Sydney Water:

Prior to the issue of an Occupation Certificate, a Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92.

- a) Make an early application for the certificate, as there may be water and sewer pipes to be built and this can take some time. This can also impact on other services and building, driveway or landscape design.

- b) Application must be made through an authorised Water Servicing Coordinator. For help, either visit www.sydneywater.com.au > Plumbing, building and developing > Developing > Land development or telephone 13 20 92.

9. The following conditions are imposed by the NSW Police Service:

- a) As the proposed development may be exposed to Break and Enter Steals, Stealing, Steal from persons, Malicious Damage and Steal from Motor Vehicle offences, a closed circuit surveillance system (CCTV) which complies with the Australian Standard - Closed Circuit Television System (CCTV) AS:4806:2006 shall to be implemented to receive, hold or process data for the identification of people involved in anti-social behaviour prior to the issue of the Occupation Certificate. The system is obliged to conform with Federal, State or Territory Privacy and Surveillance Legislation;
- b) The CCTV system should consist of surveillance cameras strategically located in and around the development to provide maximum surveillance coverage of the area, particularly in areas that are difficult to supervise. Cameras should be strategically mounted outside the development buildings and within the car parking areas to monitor activity within these areas. One or more cameras should be strategically mounted at entry and exit points to monitor activities around these areas (underground car park, foyer entrance);
- c) Digital technology should be used to receive, store and process data. Recording equipment should be secured away from public access areas to restrict tampering with the equipment and data. This equipment needs to be checked and maintained on a regular basis.
- d) It is crucial even in the development stage that these cameras are installed as soon as power is available to the site.
- e) Any proposed landscaping and vegetation should adhere to the following principles:
 - i) Shrubs bushes, plants should remain under 900mm in height;
 - ii) Branches or large trees should start at a height of two (2) metres and higher;

This will assist with natural surveillance and reduce hiding spots and dark areas for potential offenders.
- f) By angling fire egress inlet walls 45 degrees or more, opportunities for entrapment, loitering and vandalism can be reduced.
- g) Any proposed seating area, playground or grass area should be positioned somewhere which can be viewed easily by the community. Consider whether the area will be used enough to warrant its development. Areas which are isolated, unused and maintained poorly become a breeding ground for anti social behaviour.
- h) Care should be taken when using glazing in entry foyers. At night the vision of departing occupants can be affected by reflections on the interior of the glass (can't see outside). Mirroring can be reduced by using appropriate external

lighting.

- i) The configuration of car parking spaces can impact the risk to car thieves. Grid rows increase natural surveillance. Avoid dark spots, corners and isolated car spaces.
- j) Public laundries, garbage disposal areas and other communal spaces should not be located in a buildings 'leftover space'. Poor supervision of communal facilities can greatly increase the risk of predatory crime, theft and vandalism. Areas that are unused or sporadically used after hours and unsupervised should not be accessible to the public.
- k) Uneven building alignments, insert doorways and hidden entrances should be avoided. They can facilitate predatory crimes, thefts, malicious damage and other offences.
- l) Bicycle parking areas should be located within view of capable guardians. The provision of covered lockable racks to secure bicycles increases the effort required to commit crime;
- m) Lighting (lux) levels for this development must be commensurate with a medium crime risk identified in this evaluation. The emphasis should be on installing low glare/high uniformity lighting levels in line with Australian Standard AS:1158.
- n) Lighting sources should be compatible with requirements of any surveillance system installed within the development. (Poor positioning choices in relation to light can cause glare on the surveillance screens).
- o) The luminaries (light covers) should be designed to reduce opportunities for malicious damage. Lighting within the development needs to be checked and maintained on a regular basis.
- p) A limited amount of internal lighting should be left on at night to enable patrolling police, security guards and passing people to monitor activities within the business.
- q) Improved lighting needs to extend from the development towards adjacent streets. Consideration must be given to pedestrians walking from the development to surrounding streets for the purpose of catching public transport etc. Areas adjoining pathways should be illuminated to avoid opportunities for concealment and entrapment.
- r) Clear street number signs should be displayed and appropriately positioned at the front of the business to comply with Local Government Act, 1993 Section 124 (8). Failure to comply with any such order is an offence under Section 628 of the Act. Offences committed under Section 628 of the Act attract a maximum penalty of 50 penalty units (currently \$5500) for an individual and 100 penalty units (currently \$11000) for the corporation. The numbers should be in contrasting colours to the building materials and be larger than 120mm.
- s) Warning signs should be strategically posted around the buildings to warn intruders of what security treatments have been implemented to reduce opportunities for crime.
 - Warning, trespassers will be prosecuted.
 - Warning, these premises are under electronic surveillance
- t) Directional signage should be posted at decision making points (eg. Entry/egress points) to provide guidance to the uses of the development. This can also assist in access control and reduce excuse making opportunities by

- intruders.
- u) A Fire Safety Statement must be prominently displayed within the development to comply with the Environmental Planning & Assessment Regulations (1994) Clause 80GB. The annual fire safety statement is a statement issued by the owner of a building.
 - v) Signage needs to be provided at fire exits to assist occupants to identify exits in emergency situations.
 - w) Signage needs to be provided to assist occupants to identify fire suppression equipment, eg extinguishers, fire hoses etc.
 - x) A graffiti management plan needs to be incorporated into the maintenance plan for the development. Research has shown that the most effective strategy for reducing graffiti attacks is the quick removal of such material generally within 24 hours.
 - y) Graffiti resistant materials and anti-graffiti coating should be utilised throughout the development.
 - z) An Emergency control and evacuation plan which complies with the Australian Standard, Emergency Control Organisation and Procedures for Buildings, Structures and Workplace, AS:3745:2002 should be prepared and maintained by your development to assist management and staff in the event of an emergency. This standard sets out the requirements for the development of procedures for the controlled evacuation of the building, structures and workplaces during emergencies. Further information in relation to planning for emergencies can be obtained from Emergency NSW <http://www.emergency.nsw.gov.au> or Emergency Management Australia <http://www.ema.gov.au>.
 - aa) It is not advised to install storage cages or similar for the residents in the underground car park. If it is required, consider that they should NOT be constructed in an isolated area. The cages are easy targets when they have little supervision. CCTV cameras must cover this area if they are constructed. Solid steel housing and quality key locks should be used to prevent access.
 - bb) The door and door frames to these premises should be of solid construction.
 - cc) Doors should be fitted with locks that comply with the Australian Standard — Mechanical Locksets for doors in buildings, AS:4145:1993, to restrict unauthorised access and the Building Code of Australia (fire regulations). This standard specifies the general design criteria, performance requirements and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiency under conditions of light to heavy usage. The standard covers lock sets for typical doorways, such as wooden, glass or metal hinged swinging doors or sliding doors in residential premises. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard (eg. Locking bars, electronic locking devices and detection devices) Dead locks are required for residential units.
 - dd) There are some doors within the premises which are designated as fire exits and must comply with the Building Code of Australia. This means that they provide egress to a road or open space, an internal or external stairway, a ramp, a fire isolated passageway, a doorway opening to a road or open space. The doors in the required exits must be readily open-able without a key from the side that face the person seeking egress, by a single hand downward action or pushing action on a single device which is located between 900mm and 1.2m from the floor.

- ee) Any sliding doors MUST be fitted with lockable bolts in the bottom and top of the door frame.
- ff) The windows and window-frames to these premises should be of solid construction. The windows should be fitted with locks which comply with Australian Standard- Mechanical Locksets for windows in buildings, AS:4145 <http://www.standards.org.au> to restrict unauthorised access. This standard specified the general design criteria, performance requirements, and procedures for testing mechanical lock sets and latch sets for their resistance to forced entry and efficiently under conditions of light to heavy usage. The standard covers lock sets for typical windows, such as wooden, glass or metal hinged swinging windows or sliding windows in residential and business premises, including public buildings, warehouses and factories. Requirements for both the lock and associated furniture are included. Certain areas may require higher level of locking devices not referred to in this standard (e.g. locking bars, electronic locking devices, detection devices, alarms).
- gg) The main access to the on-site car park should have restricted access with a security pass. The opening/closing mechanism should be protected from vandalism and tampering. All exist doors from the car park should have striker plates installed to minimise chance of tampering.
- hh) As your business may deal in cash a robbery prevention program needs to be established to ensure that management and staff are aware of their responsibilities in the event of such an event taking place. Establish clear cash-handling procedures within your business to reduce opportunities for crime. Staff should be trained in cash handling procedures to reduce the opportunities for crime. Limit the amount of money carried in the cash drawer at any time (\$200.00 float). Lock cash drawers when not in use and clear money from the cash drawer on a regular basis e.g. to a safe. Avoid counting cash in view of public. Use a minimum of two staff, or security services, when transferring money to financial institutions, or consider using a reputable security company especially when transferring large amounts of money. Avoid wearing uniform or identification when transferring money. Don't use conspicuous bank-bags when transferring money, as this can be a clear indication to the thief.
- ii) Any cash safe should be secured to the floor and placed away from view of public. Staff should be trained in safe cash handling practices to minimise the loss of monies in the event of a robbery.
- jj) There need to be a limit to how many exit and entry points are available to the car park.
- kk) Vertical fencing/barriers are required around the car park to restrict access and reduce the opportunity for offenders to climb the exterior.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF ANY CONSTRUCTION CERTIFICATE

10. Prior to the issue of the Construction Certificate the required Long Service Levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 has to be paid. The Long Service Levy is payable at 0.35% of the total cost of the development, however this is a State Government Fee and can change without notice.
11. The applicant must prior to the issue of the Construction Certificate pay the following

fees:-

- | | | |
|----|---------------------------|-------------|
| a) | Builders Security Deposit | \$27,435.00 |
| b) | Development Control | \$1,180.00 |
| c) | Tree Preservation Bond | \$1,000.00 |

12. The payment of the following monetary contributions in accordance with Council's Section 94 Contributions Plan 2005- 2010 (indexed):

- | | | | |
|----|-------------------------------|------------------------|--------------------|
| a) | Community Facilities: | \$7,329.00 | \$9,772.00 |
| b) | Administration: | \$1,113.00 | \$1,484.00 |
| c) | Shopping Centre Improvements: | \$4,746.00 | \$6,328.00 |
| d) | Open Space and Recreation: | \$51,660.00 | \$68,880.00 |

This result is a total contribution of ~~\$64,848.00~~ **\$86,464.00** to be paid to Council prior to the issue of the Construction Certificate.

(Condition modified – DA-14/154/2)

13. ***The amendments shown in red on the approved plans dated 2 September 2016 must be shown on any Construction Certificate plans.***

Prior to the issue of the Construction Certificate, provide amended plans of the following:

- a) ~~delete Studio 201 balcony;~~
- b) ~~install privacy screen to a height of 1.8 metres on the eastern side of the balcony at Studio 306;~~
- c) ~~install fixed privacy screens/louvres at a 45 degree angle over W222 and W321;~~
- d) ~~restrict the number of tenants from 27 to 21 (including the boarding house manager) thereby seven (7) double occupancy rooms and seven (7) single occupancy rooms.~~

(Condition modified – DA-14/154/2)

14. Prior to the issue of the Construction Certificate, amend the Plan of Management to include details of the owners and operators of the boarding house.
15. Prior to the issue of any Construction Certificate, at the proposed point of construction site entry, photographic survey showing the existing conditions of Council's infrastructure shall be submitted to Council and Principal Certifying Authority. The survey shall detail the physical conditions and identify any existing damages to the roads, kerbs, gutters, footpaths, driveways, street trees, street signs and any other Council assets fronting the property and extending to a distance of 20m from the development. Failure to do so may result in the applicant/developer being liable for any construction related damages to

these assets. Any damage to Council's infrastructure during the course of this development shall be restored at the applicant's cost.

16. A Construction Management Program shall be submitted to, and approved in writing by the Council prior to the issue of a Construction Certificate. The program shall detail:
- a) The proposed method of access to and egress from the site for construction vehicles, including access routes through the Council area and the location and type of temporary vehicular crossing for the purpose of minimising traffic congestion and noise in the area, with no access across public parks or public reserves being allowed,
 - b) The proposed phases of construction works on the site and the expected duration of each construction phase,
 - c) The proposed order in which works on the site will be undertaken, and the method statements on how various stages of construction will be undertaken,
 - d) The proposed manner in which adjoining property owners will be kept advised of the timeframes for completion of each phase of development/construction process,
 - e) The proposed method of loading and unloading excavation and construction machinery, excavation and building materials, formwork and the erection of any part of the structure within the site. Wherever possible mobile cranes should be located wholly within the site,
 - f) The proposed areas within the site to be used for the storage of excavated materials, construction materials and waste containers during the construction period,
 - g) The proposed method/device to remove loose material from all vehicles and/or machinery before entering the road reserve, any run-off from the washing down of vehicles shall be directed to the sediment control system within the site,
 - h) The proposed method of support to any excavation adjacent to adjoining properties, or the road reserve. The proposed method of support is to be designed and certified by an Accredited Certifier (Structural Engineering), or equivalent,
 - i) Proposed protection for Council and adjoining properties, and
 - j) The location and operation of any on site crane. Please note that a crane may require prior approval from Sydney Airports Corporation.

The location of any Construction Zone (if required) approved by Council's Traffic Committee, including a copy of that approval.

17. Prior to the release of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Engineering and Regulatory Services Department, showing the method of access of building materials and plant to the property, and storage location on the property during construction and shall include all existing structures.

18. Prior to the issue of any Construction Certificate, the applicant shall contact “Dial Before You Dig” to obtain a utility service diagram for, and adjacent to the property. The sequence number obtained from “Dial Before You Dig” shall be forwarded to Principal Certifying Authority. All utilities within the work zone shall be protected during construction. Any adjustments or damage to public utilities/services as a consequence of the development and associated construction works shall be restored or repaired at the applicant’s expense.
19. Prior to the issue of any Construction Certificate, detail design and construction plans in relation to stormwater management and disposal system for the development shall be submitted to the Principal Certifying Authority and Council for approval. (The detail drawings and specifications shall be prepared by a suitably qualified and experienced civil engineer and to be in accordance with Council’s Development Control Plan ‘Stormwater Management Technical Guidelines’, AS/NSZ 3500 – Plumbing and Drainage Code and the BCA. All drawings shall correspond with the approved architectural plans.) The plans shall incorporate but not limited to:
- a) the provision for a On-site Stormwater Infiltration System satisfying all relevant Council and Australian Standards, and
 - b) the provision for a minimum 10kL Rainwater Tank to service the proposed boarding house, satisfying all relevant Council and Australian Standards.
20. Prior to the issue of any Construction Certificate, the Development is to be constructed to meet all recommendations and requirements that have been detailed in the acoustic report provided by Koikas Acoustics Pty Ltd dated 28 April 2014. The measures as detailed in the acoustic assessment report prepared by Koikas Acoustics Pty Ltd, shall be undertaken in accordance with the provisions of *AS 2021 – 2000: Acoustics - Aircraft Noise Intrusion – Building, Siting and Construction* to establish components of construction to achieve indoor design sound levels in accordance with Table 3.3 of AS2021 – 2000.

The work detailed in the report includes:

- a) The roof/ceiling must be constructed as per Table 3 of the report,
- b) All external walls need to be constructed as per Table 4 of the report,
- c) Glazing to all windows and glazed door systems are to be as per Table 5 of the report.
- d) Acoustically treated mechanical ventilation must be provided to this premise for it to comply with current guidelines.

Note: In many cases the applicant chooses to install air conditioning to meet mechanical ventilation requirements above. If they do, it will require consideration of the noise from the air conditioner (advice concerning noise from air conditioners is attached below).

21. Prior to the issue of any Construction Certificate, the groundwater shall be assessed across the site to:

- a) Determine any risks to the health and safety of construction workers and the proposed occupants of the site;
 - b) Provide amendments to any contaminated land assessments and reports to reflect these results, and
 - c) Provide all necessary remediation and management measures to address any identified risks through the Remediation Action Plan (RAP).
22. Prior to the issue of any Construction Certificate, a Stage 3 – Remedial Action Plan (RAP) shall be prepared by a suitably qualified and experienced contaminated land consultant and in accordance with:
- a) NSW Office of Environment and Heritage (OEH) ‘Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites’;
 - b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The RAP shall incorporate all findings and recommendations in any Phase1 Preliminary Site Assessment and Phase 2 Detailed Site Assessment for the site, it shall clearly state proposed clean-up objectives, and demonstrate how the site will be made suitable for the proposed residential use.

The RAP shall be submitted to Council prior to commencement of any remedial action works or any excavation, demolition or other building works undertaken that are not associated with the preparation of the RAP. The RAP shall be submitted to Council prior to the commencement of any remedial action and prior to the issue of any construction certificate.

23. To enable the site suitability to be assessed prior to the completion of the development and a Site Audit Statement to be completed prior to the issue of any occupation certificate, an accredited Site Auditor under the *Contaminated Land Management Act 1997* shall be engaged for this development prior to the issue of any construction certificate. Written evidence of this engagement shall be provided to council prior to the issue of any construction certificate.

Note: A Site Auditor should be involved at the start of the assessment and remediation to ensure that the site is made suitable for the proposed uses and reduce any delays or problems in the issue of a Site Audit Statement demonstrating the site is suitable for the proposed uses.

24. Prior to the issue of the Construction Certificate, in accordance with the Contaminated Land Management Act 1997, notification of all category 2 remediation work to Council is required at least 30 days prior to commencement of works.
25. An Erosion and Sediment Soil and Water Management Plan (ESCP) shall be prepared in accordance with the Landcom *Managing Urban Stormwater – Soils and Construction* 4th Edition (2004) and submitted to the Principal Certifying Authority prior to the issue of any

Construction Certificate.

This plan shall be implemented prior to commencement of any site works or activities. All controls in the plan shall be maintained at all times during the construction works. A copy of the ESCP shall be kept on-site at all times and made available to Council Officers on request.

26. A sufficient area shall be provided onsite to enable separate stockpiling of excavated materials for sampling and analysis prior to removal or reuse on site. Details of this area shall be provided in the Erosion and Sediment Control Plan (ESCP) prior to the release of any construction certificate. This plan shall incorporate and reference the construction environmental management plan and address site limitations.
27. All plumbing stacks, vent pipes and the like shall be kept within the building and suitably concealed from view. This condition does not apply to the venting to atmosphere of the stack above roof level. Details shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.
28. Prior to the issue of the Construction Certificate, a plan (written and/or diagrammatic) shall be submitted and approved by the Principal Certifying Authority, showing the storage location of construction building materials and plants and the method of access to the property. No storage of construction materials and plants to be allowed in road reserve area.
29. Prior to the issue of the Construction Certificate, a report is required from a qualified plumber certifying that the existing drainage system, up to where it connects with a Council drainage structure and/or discharges to the groundwater system, is clear of debris and fully operational. Where the existing system is determined deficient, damaged and/or not operational, a new system shall be designed and constructed by a suitably qualified Civil Engineer and in accordance with Council's Stormwater Management Technical Guidelines (SMTG) & AS 3500.
30. Prior to issue of any Construction Certificate, the applicant is to submit payment for a Tree Preservation Bond of (\$1000) to ensure protection of the existing mature Peppercorn street tree (east side of driveway) from damage during construction. The duration of the Bond shall cease upon issue of the Occupation Certificate. At the issue of the occupation certificate the Tree Preservation Bond shall be refunded pending a satisfactory inspection by Council or a qualified Arborist. If the tree was found to be in decline, damaged (including roots), dead or pruned without Council permission or, if tree protection measures were not satisfied at any time, then Council will forfeit all, or part thereof, of the bond.
31. The external paths and ground surface adjoining the walls of the building being graded and drained away from the boarding house in such a manner as to not cause a nuisance with regard to overland flow to adjoining properties or the adjoining public place. Details shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate.
32. TV aerials to be located at the rear of the building. Details shall be submitted to the

Principal Certifying Authority prior to issue of the Construction Certificate.

33. Each sleeping room in a Class 3 building must be considered as a sole occupancy unit for the purposes of Section C and Part D1, D2 and F5 of the Building Code of Australia so as to ensure there is adequate fire safety in the building, and adequate should insulation to provide reasonable amenity between sleeping rooms. Details to be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate.
34. In a Class 3 building, public corridor and egress routes from sleeping room, must be fire separated from adjoining areas (including sleeping rooms, reception areas, linen and baggage stores, garage room, recreation/living room and kitchen) to comply with Performance Requirement CP2 of the Building Code of Australia. Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.
35. Floor covering and materials in sleeping rooms and corridors must be of materials that resists the spread of fire, and limit the generation of smoke and heat in accordance with Section C of the Building Code of Australia. Details are to be submitted to the Principal Certifying Authority prior to the issue of the Construction Certificate.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE COMMENCEMENT OF ANY DEVELOPMENT OR WORK

36. The demolisher shall lodge with Council, and at least forty-eight (48) hours prior to the commencement of work:-
 - a) Written notice, indicating the date when demolition of the building is to commence.
 - b) This persons full name and address.
 - c) Details of Public Liability Insurance.
37. The Principal Certifying Authority must be satisfied that: -
 - a) In the case of work to be done by a licensee under the Home Building Act: -
 - i) Has been informed in writing of the licensee name and contractor licence number, and;
 - ii) Is satisfied that the licensee has complied with the requirements of Part 6 of the Home Building Act 1989; or,
 - b) In the case of work to be done by any other person: -
 - i) Has been informed in writing of the persons name and owner-builder permit number, or;
 - ii) Has been given a declaration signed by the owner of the land that states that the reasonable market cost of the labour and materials involved in the work is less than the amount prescribed for the purposes of the definition of *owner builder work* in Section 29 the Home Building Act 1989.

38. Prior to the commencement of works, the applicant must inform Council, in writing, of:
- a) The name of the contractor, and licence number of the licensee who has contracted to do, or intends to do, the work: or
 - b) The name and permit number of the owner-builder who intends to do the work;
 - c) The Council also must be informed if: -
 - i) A contract is entered into for the work to be done by a different licensee; or
 - ii) Arrangements for the doing of the work are otherwise changed.
39. Toilet facilities are to be provided at or in the vicinity of the work site on which work involves:
- a) demolition and construction of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site;
 - b) Each toilet provided:
 - i) must be standard flushing toilet; and,
 - ii) must be connected:
 - 1 to a public sewer; or
 - 2 if connection to a public sewer is not practicable to an accredited sewerage management facility approved by the Council; or,
 - 3 if connection to a public sewer or an accredited sewerage management facility is not practicable to some other sewerage management facility approved by the Council.
 - c) The provisions of toilet facilities in accordance with this condition must be in place before work commences.
40. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:
- a) The Soil and Water Management Plan if required under this consent;
 - b) "Managing Urban Stormwater – Soils and Construction" (2004) ('The Blue Book'); and
 - c) Protection of the Environment Operations Act 1997.
41. Building plans must be lodged at a Sydney Water Quick Agent for approval prior to commencement of works.
42. This Consent shall not preclude the demolisher from giving notice to other statutory authorities, such as Sydney Water Corporation, WorkCover, etc.
43. Where any shoring is to be located on or is supporting Council's property, or any adjoining private property, engineering drawings certified as being adequate for their intended

purpose by an appropriately qualified and practising engineer, showing all details, including the extent of encroachment and the method of removal (or any other method) and de-stressing of shoring elements, shall be submitted with the Construction Certificate to the Principle Certifying Authority along with Council's (or other) consent if the works intrude on Council's (or other) property.

44. If the land to which the application relates is served by a common sewerage system that is also used by others, then measures must be placed in effect and prior to the commencement of work to ensure the operation of the sewerage system is without disruption to other joint users.
45. Erosion and sediment control devices shall be installed prior to the commencement of any demolition, excavation or construction works upon the site in order to prevent sediment and silt from site works (including demolition and/or excavation) being conveyed by stormwater into Council's stormwater system, natural watercourses, bushland, trees and neighbouring properties. In this regard, all stormwater discharge from the site shall meet the requirements of the Protection of Environment Operations Act 1997 and the Department of Environment, Climate Change and Water guidelines. These devices shall be maintained in a serviceable condition AT ALL TIMES throughout the entire demolition, excavation and construction phases of the development and for a minimum one (1) month period after the completion of the development, where necessary.
46. Prior to commencement of any works, application(s) shall be made to Council's Customer Services Counter for the following approvals and permits on Council's property/road reserve under Road Act 1993 and Local Government Act 1993 as appropriate: -

(It should be noted that any works shown within Council's road reserve or other Council Lands on the development approval plans are indicative only and no approval for these works is given until this condition is satisfied.)
 - a) Permit to erect hoarding on or over a public place, including Council's property/road reserve
 - b) Permit to construction works, place and/or storage building materials on footpaths, nature strips
 - c) Permit for roads and footways occupancy (long term/ short term)
 - d) Permit to construct vehicular crossings, footpath, kerb and gutter over road reserve
 - e) Permit to open road reserve area, including roads, footpaths, nature strip, vehicular crossing or for any purpose whatsoever
 - f) Permit to place skip/waste bin on footpath and/or nature strip
 - g) Permit to use any part of Council's road reserve or other Council lands
47. All management measures recommended and contained within the Erosion and Sediment Control Plan (ESCP) submitted as part of the construction certificate shall be implemented in accordance with the *Landcom Managing Urban Stormwater – Soils and Construction* 4th Edition (2004). This plan shall be implemented prior to commencement of any site works

or activities. All controls in the plan shall be maintained at all times and made available to council officers on request.

48. Prior to the commencement of any works, the vehicular entry/exits to the site must be protected from erosion and laid with a surface material which will not wash into the street drainage system or watercourse.
49. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for marine water. The results of all testing must be completed by a NATA accredited laboratory.

All laboratory results must be accompanied by a report prepared by a suitably qualified person indicating the water meets these guidelines and is acceptable to be released into council's stormwater system. If it is not acceptable, details of treatment measures to ensure that the water is suitable for discharge shall be provided in this report.

Reports shall be provided to council prior to discharge of groundwater to the stormwater system.

DURING WORKS

50. The proposed development shall comply with the following:
 - a) A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i) Stating that unauthorised entry to the work site is prohibited;
 - ii) Showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours;
 - iii) The Development Approval number; and
 - iv) The name of the Principal Certifying Authority including an after hours contact telephone number.
 - b) Any such sign is to be removed when the work has been completed.
51. The demolisher shall comply with Australian Standard 2601 - 2001 "Demolition of Structures".
52. If any material containing asbestos is found on site during the demolition process the material is to be removed and disposed of in accordance with WorkCover requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
53. Precautions to be taken shall include compliance with the requirements of the WorkCover Authority of New South Wales, including but not limited to:

- a) Protection of site workers and the general public.
 - b) Erection of hoardings where appropriate.
 - c) Asbestos handling and disposal where applicable.
 - d) Any disused service connections shall be capped off.
 - e) The disposal of refuse is to be to an approved waste disposal depot.
54. Hazardous or Special Wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of WorkCover NSW and the Department of Environment, Climate Change and Water and with the provisions of the:
- a) Occupational Health and Safety Act, 2000;
 - b) Occupational Health and Safety Regulation 2001;
 - c) Protection Of the Environment Operations Act 1997 (NSW); and
 - d) NSW Department of Environment and Climate Change Waste Classification Guidelines (2008).
55. Any material containing asbestos found on site during the demolition process the shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m2 of bonded asbestos and/or any friable asbestos;
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation;
 - d) DECC Waste Classification Guidelines 2008.
 - e) No demolition materials shall be burnt or buried on the site.
56. The demolition and disposal of materials incorporating lead such as lead paint and dust shall be conducted in accordance with:
- a) AS2601-2001 - Demolition of structure.
 - b) AS4361.2-1998 – Guide to Lead Paint Management-Residential and Commercial Buildings
57. In order to ensure safe handling of asbestos materials, the re-use or sale of asbestos

building materials is strictly prohibited.

58. No demolition materials shall be burnt or buried on the site.

59.

a) To ensure that utility authorities and Council are advised of any effects to their infrastructure by the development, the applicant shall: -

i) Carry out a survey of all utility and Council services within the site including relevant information from utility authorities and excavation if necessary to determine the position and level of services.

ii) Negotiate with the utility authorities (eg Energy Australia, Sydney Water and Telecommunications Carriers) and Council in connection with: -

1 1 The additional load on the system; and

2 2 The relocation and/or adjustment of the services affected by the construction.

b) Any costs in the relocation, adjustment, and provision of land or support of services as requested by the service authorities and Council are to be the responsibility of the developer.

60. Should the demolition process require a building waste container(s) (builders' skip), then such container must not be placed or left upon the public road, footpath, reserve or the like without the prior approval of the Council. The use of any part of Council's road reserve must also have prior approval of Council.

61. Throughout the construction period, Council's warning sign for soil and water management shall be displayed on the most prominent point of the building site, visible to both the street and site workers. A copy of the sign is available from Council's Customer Service Counter.

62. The approved Waste Management Plan shall be complied with at all times during demolition, construction and on-going use of the site.

63. All possible and practicable steps shall be taken to prevent nuisance to the inhabitants of the surrounding neighbourhood from wind-blown dust, debris, noise and the like.

64. All excavations and backfilling shall be executed safely and in accordance with appropriate professional standards; and all excavations shall be properly guarded and protected to prevent them from being dangerous to life or property.

65. The following shall be complied with during construction and demolition:

a) Construction Noise

Noise from construction activities associated with the development shall comply with the NSW Environment Protection Authority's Environmental Noise Manual – Chapter 171 and the Protection of the Environment Operations Act 1997.

b) Level Restrictions

i) Construction period of 4 weeks and under:

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 20dB(A).

ii) Construction period greater than 4 weeks and not exceeding 26 weeks:

The L10 sound pressure level measured over a period of not less than 15 minutes when the construction site is in operating must not exceed the background level by more than 10 dB(A).

c) Time Restrictions

i) Monday to Friday 07:00am to 06:00pm

ii) Saturday 07:00am to 01:00pm

iii) No Construction to take place on Sundays or Public Holidays.

d) Silencing

All possible steps should be taken to silence construction site equipment.

66. The applicant shall conduct all construction and related deliveries wholly on site. If any use of Council's road reserve is required then separate applications are to be made at Council's Customer Services Department.

67.

- a) In order to prevent vehicles tracking soil or other materials onto public roads and washing of materials into the street drainage system or watercourse, during Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion; and,
- b) In addition, concrete trucks and any other trucks that used for the transportation of building materials or similar, shall not traffic soil cement or other materials onto the road reserve. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or enter Council's land.
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this condition.
- d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.

- e) Building operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on public roadways or footways or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
68. During Construction, care must be taken to protect Council's infrastructure, including street signs, footpath, kerb, gutter and drainage pits etc. Protecting measures shall be maintained in a state of good and safe condition throughout the course of construction. The area fronting the site and in the vicinity of the development shall also be safe for pedestrian and vehicular traffic at all times. Any damage to Council's infrastructure (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub-contractors, concrete delivery vehicles) shall be fully repaired in accordance with Council's specification and AUS-SPEC at no cost to Council.
69. Any new information that comes to light during demolition or construction which has the potential to alter previous conclusions about site contamination and remediation must be notified to Council and the accredited certifier immediately.
70. All remediation work must be carried out in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - b) NSW Environment Protection Authority (NSW EPA) guidelines under the Contaminated Land Management Act 1997;
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land; and
 - d) The Remedial Action Plan (RAP) required to be submitted prior to the issue of the Construction Certificate.
71. Any material containing asbestos found on site during the demolition process shall be removed and disposed of in accordance with:
- a) WorkCover NSW requirements. An appropriately licensed asbestos removalist must complete all asbestos works if they consist of the removal of more than 10m² of bonded asbestos and/or any friable asbestos.
 - b) Protection of the Environment Operations Act 1997;
 - c) Protection of the Environment Operation (Waste) Regulation
 - d) DECC Waste Classification Guidelines 2008.
72. For any water from site dewatering to be permitted to go to stormwater, the water must meet ANZECC 2000 Water Quality Guidelines for Fresh and Marine Water for the 95% protection trigger values for Marine Water. All testing must be completed by a NATA accredited laboratory. All laboratory results must be accompanied by a report prepared by a suitably qualified and experienced person indicating the water is acceptable to be

released into Council's stormwater system. If the groundwater does not meet these guideline levels a Trade Waste permit from Sydney Water must be sought to put the groundwater to sewer.

73. To prevent contaminated soil being used onsite and to ensure that it is suitable for the proposed land use, all imported fill shall be appropriately certified material and shall be validated in accordance with the:

- a) Office of Environment and Heritage (OEH) approved guidelines; and
- b) Protection of the Environment Operations Act 1997; and
- c) Protection of the Environment Operations (Waste) Regulation 2005.

All imported fill shall be accompanied by documentation from the supplier which certifies that the material has been analysed and is suitable for the proposed land use.

74. All materials excavated from the site (fill or natural) shall be classified in accordance with the NSW Office of Environment and Heritage (OEH) Waste Classification Guidelines (2008) prior to being disposed of to a NSW approved landfill or to a recipient site.

75. Results of the monitoring of any field parameters such as soil, groundwater, surface water, dust or noise measurements shall be made available to Council Officers on request throughout the remediation and construction works.

76. The principal contractor or owner builder must install and maintain water pollution, erosion and sedimentation controls in accordance with:

- a) The Erosion and Sediment Control Plan;
- b) "Managing Urban Stormwater - Soils and Construction" (2004) Landcom ('The Blue Book'); and
- c) Protection of the Environment Operations Act 1997.

77. During Demolition, Excavation, Construction and Deliveries, access to the site shall be available in all weather conditions. The area shall be stabilised and protected from erosion to prevent any vehicles (including deliveries) tracking soil materials onto street drainage system/watercourse, Council's lands, public roads and road-related areas. Hosing down of vehicle tyres shall only be conducted in a suitable off-street area where wash waters do not enter the stormwater system or Council's land.

78.

- a) The applicant shall conduct all construction works and any related deliveries/activities wholly within the site. If any use of Council's road reserve is required, approval and permits shall be obtained from Council.
- b) Construction operations such as brick cutting, washing tools or brushes and mixing mortar shall not be carried out on park/road reserve or in any other locations which could lead to the discharge of materials into the stormwater drainage system or onto Council's lands.
- c) Hosing down or hosing/washing out of any truck (concrete truck), plant (eg concrete pumps) or equipment (eg wheelbarrows) on Council's road reserve or other property is strictly prohibited. Fines and cleaning costs will apply to any breach of this

condition.

- d) Pavement surfaces adjacent to the ingress and egress points are to be swept and kept clear of earth, mud and other materials at all times and in particular at the end of each working day or as directed by Council's Engineer.

79.

- a) If an excavation associated with the proposal extends below the level of the base of the footings of a building on an adjoining allotment of land or the common boundary fence the person causing the excavation to be made:
 - i) Must preserve and protect the building/ fence from damage; and,
 - ii) If necessary, underpin and support such building in an approved manner;
 - iii) Must at least be 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of the intention to do so to the owner of the adjoining allotment of land and, furnish particulars of the excavation to the owner of the building being erected or demolished;
- b) Any retained existing structures and or services on this and adjoining properties are not endangered during any demolition excavation or construction work associated with the above project. The applicant is to provide details of any shoring, piling, or underpinning prior to the commencement of any work. The construction shall not undermine, endanger or destabilise any adjacent structures.
- c) If the soil conditions required it:
 - i) Retaining walls associated with the erection of a building or other approved methods of preventing movement or other approved methods of preventing movement of the soil must be provided, and
 - ii) Adequate provision must be made for drainage.

80. Inspections must be conducted by Council's Engineer at the following occasions:

- a) Formwork inspection of driveway layback and adjacent kerb and gutter prior to laying of concrete,
- b) Formwork inspection of Council's footpath prior to laying of concrete,
- c) Final inspection of driveway layback and adjacent kerb and gutter, and
- d) Final inspection of Council's footpath.

81. The Applicant has permission to remove one (1) tree, being the mature Eucalyptus tree located within the front setback of the property. Note: Trees are not permitted to be removed until the Construction Certificate has been issued.

82. In order to ensure that the existing mature Council street tree (Peppercorn Tree) within the nature strip is protected during construction, and the health and structural stability ensured, the following is required:

- a) Prior to commencing demolition/any works the trees are to be physically protected by fencing underneath the canopy dripline using 1.8 metre high chainwire fence to form the Tree Protection Zone (TPZ). The fence shall remain in place until construction is complete.
- b) Fencing shall be erected to ensure the public footway is unobstructed.
- c) Before any works commence on site, the Applicant is required to contact Council for an inspection and/or provide photographic evidence of the fenced TPZ's. Council approval is required prior commencement of any work.
- d) All detailed Construction Certificate plans shall show trees to be protected and the TPZ.
- e) All TPZ's as well as the entire Council nature strip are a "No-Go" zone. There shall be no access to the property excluding the existing crossover, no stockpiling, storage or sorting of waste or building materials, no construction work, no concrete mixing, strictly no washing down of concrete mixers or tools, no chemicals mixed/disposed of, no excavation or filling, no service trenching. Any unavoidable work within the fenced zone shall be under the direction of Council's Tree Officer.
- f) It is the Applicant's responsibility to ensure that there is no damage to the canopy, trunk or root system (including the surrounding soil) of any tree. There shall be no canopy pruning unless approval has been granted by Council's Tree Officer under separate application.
- g) Masonry boundary fencing/walls or retaining walls shall be of piered or bridged construction to minimise damage to major or structural tree roots where applicable. Trench or strip footings are not permitted. If a tree root 40mm diameter or greater is in the location of a pier and the root cannot be cut without compromising the tree, the pier will need to be relocated and the root bridged.
- h) The Applicant shall undertake any tree maintenance/remedial pruning as required by Council at the completion of construction.

If there is any contravention of these tree preservation conditions, or a tree was found to be damaged (including roots), in decline, dead or pruned without permission, then Council will invoice the Applicant for costs associated with remedial pruning work or tree replacement. For trees on private property, the Applicant will be required to undertake tree maintenance/replacement work, as specified by Council.

CONDITIONS WHICH MUST BE SATISFIED PRIOR TO THE ISSUE OF A OCCUPATION CERTIFICATE

- 83. Prior to the issue of any Occupation Certificate, all applications associated with works on Council's land must be made at least 7-10 days prior to the programmed completion of works and all construction must be completed and approved by Council.
- 84. An operational Plan of Management, Emergency Management and Evacuation Plan is to be submitted to Council prior to the issue of the Occupation Certificate to ensure that the proposed premises operates in a manner that maintains a high level of amenity.
- 85. Prior to releasing an Occupation Certificate for the building, an Emergency Management and Evacuation Plan must be prepared for the building and approved by the Principal Certifying Authority. The staff shall be trained in relation to the operation of the approved

Emergency Management and Evacuation Plan.

86. Prior to the issue of the Occupation Certificate, the Plan of Management is to be amended to include:
- a) ~~Maximum number of boarder to 21 (including boarding house manager)~~ **A maximum of twenty-seven (27) people (including boarding house manager) are to be accommodated in the boarding house in any one time;**
(Condition modified – DA-14/154/2)
 - b) Outdoor Communal area can only be used between 7:30am to 9.00pm daily.
 - c) No more than five (5) cars and three (3) motorbikes are to be parked on site at any one time.
 - d) No parties are to be held on site at any time.
 - e) Incoming tenants to be made aware of the Plan of Management and House Rules together with a requirement that the tenants abide by the terms of these procedures.
 - f) An operational house rules register is to be submitted to Council prior to the issue of the Occupation Certificate and should provide a guideline for the occupants of the boarding house as to what is considered to be acceptable behaviour, e.g. controlling of loud amplified music, noise, visiting times, and the general cleanliness of rooms and common areas.
 - g) An operational Plan of Management, Emergency Management and Evacuation Plan is to be submitted to Council prior to the issue of the Occupation Certificate to ensure that the proposed premises operates in a manner that maintains a high level of amenity.
 - h) Prior to releasing an occupation certificate for the building, an Emergency Management and Evacuation Plan must be prepared for the building and approved by the Principal Certifying Authority. The staff shall be trained in relation to the operation of the approved Emergency Management and Evacuation Plan.
87. Prior to the issue of the Occupation Certificate the applicant must submit to the Principal Certifying Authority an acoustic report to verify that the measures stated in the above report in Condition No. 13 have been carried out and certify that the construction meets the above requirements and the indoor sound levels of AS2021-2000. The report must be prepared by a qualified practicing acoustic engineer (who is a member of either the Australian Acoustical Society or the Association of Australia Acoustical Consultants).
88. Any damage not shown in the photographic survey submitted to Council before site works have commenced will be assumed to have been caused by the site works (unless evidence to prove otherwise). All damages as a result from site works shall be rectified at the applicant's expense to Council's satisfaction, prior to occupancy of the development and release of damage deposit.

89. Prior to the issue of any Occupation Certificate(s), documentation from a practising civil engineer shall be submitted to the Principal Certifying Authority certifying that the stormwater drainage system has been constructed generally in accordance with the approved stormwater management construction plan(s) and all relevant standards.
90. Prior to the issue of any Occupation Certificate(s), a restriction on Use of Land and Positive Covenant(s) shall be imposed on the development. The following covenants shall be imposed under Section 88(E) of the Conveyancing Act 1919 and lodged with the NSW Land and Property Information:
- a) Restriction on Use of Land for On-Site Infiltration System. Refer to Appendix A of the SMTG for suggested wording.
91. Prior to the issue of any Occupation Certificate(s), inspection reports (formwork and final) for the works on the road reserve shall be obtained from Council's engineer and submitted to the Principal Certifying Authority attesting that this condition has been appropriately satisfied.
92. Prior to the issue of any Occupation Certificate(s), the applicant shall carry out the following works:
- a) On Daphne St, adjacent to development, reconstruct existing Kerb and Gutter for the full length of the proposed new properties in accordance with Council Infrastructure Specifications, and
 - b) On Daphne St, adjacent to development, reconstruct existing Footpath for the full length of the proposed new properties in accordance with Council Infrastructure Specifications.
93. Prior to the issue of any Occupation Certificates, an application shall be made to Council for registration of the boarding house.
94. All bedrooms within the boarding house must be numbered and have sufficient natural light and ventilation. The premise must be maintained in accordance with the NSW *Boarding House Act 2012*.
95. A minimum of one (1) evergreen tree, at least 2 metres in height and 100 litre pot size, shall be installed in the front setback of the property (eastern side) to soften the development and provide amenity to the streetscape and act as replacement for the tree removed. The species selected should be native, have low water requirements, be suited to the local soils and have a minimum height at maturity of 7 metres.
96. A minimum of one (1) small evergreen tree, at least 25 litre pot size, shall be installed in the front setback of the property (western side) to soften the development and provide amenity to the streetscape. The species selected should have low water requirements, be suited to the local soils and have a minimum height at maturity of 3 metres. Suggested species include *Magnolia grandiflora* 'Little Gem', *Syzygium paniculatum* Dwarf, *Callistemon sp.* Including 'Harkness', 'Hannah Ray', *Citrus*.

97. Screen or buffer planting is required along the northeast property boundary within the planters adjoining the communal open space area to provide screening and privacy for adjoining residents. Screen or buffer planting is also required within all landscaped areas fronting the street to reduce the scale of the proposal and improve the streetscape. Screen planting shall comprise tall, dense foliated shrubs that achieve a height of 2.5 metres and that retain foliage near ground level.
98. The Council nature strip in Daphne Street shall be repaired and/or replaced and maintained in accordance with Council Specification at the completion of all construction work at the Applicant's expense.
99. A Stage 4 – Site Validation Report (SVR) shall be prepared by a suitably qualified contaminated land consultant and shall be in accordance with:
- a) NSW Office of Environment and Heritage (OEH) 'Contaminated Sites – Guidelines for Consultants Reporting on Contaminated Sites';
 - b) NSW Environment Protection Authority (NSW EPA) approved guidelines under the Contaminated Land Management Act 1997; and
 - c) State Environmental Planning Policy 55 (SEPP55) – Remediation of Land.

The site validation report shall provide a notice of completion of remediation works, whether there are any ongoing site management requirements and a clear statement on the suitability of the likely proposed site use. The report shall be submitted to the Principal Certifying Authority (and the Council if the Council is not the Principal Certifying Authority). The report is to be submitted after completion of remediation works and prior to the issue of any occupation certificate.

100. To ensure that the site is suitable for the proposed use, a Site Audit Statement (SAS) completed by an accredited site auditor under the *Contaminated Land Management Act 1997* shall be submitted to Council clearly demonstrating that the site is suitable for the proposed development. This shall be provided prior to the release of any Occupation Certificate.

Any conditions imposed on the SAS shall form part of this consent. The accredited site auditor shall provide Council with a copy of the Site Audit Report (SAR) and Site Audit Statement (SAS) prior to the issuing of the Occupation Certificate. In circumstances where the SAS conditions (if applicable) are not consistent with the consent, a Section 96 application pursuant to the *Environmental Planning & Assessment Act 1979* shall be submitted to ensure that they form part of the consent conditions.

- 101.
- a) Condition No.'s 83 to 101 (inclusive) are pre-conditions prior to the issue of the Occupation Certificate.
 - b) Prior to use and occupation of the building an Occupation Certificate must be obtained under Section 109C(1)(c) and 109N of the Environmental Planning and Assessment Act, 1979.

CONDITIONS WHICH MUST BE SATISFIED FOR THE ONGOING USE

102. The stormwater drainage system (including all pits, pipes, absorption, detention

structures, treatment devices, infiltration systems and rainwater tanks) shall be regularly cleaned, maintained and repaired to ensure the efficient operation of the system from time to time and at all times. The system shall be inspected after every rainfall event to remove any blockage, silt, debris, sludge and the like in the system. All solid and liquid waste that is collected during maintenance shall be disposed of in a manner that complies with the appropriate Environmental Guidelines.

103.

- a) An appropriate form of on-site management with responsibility for:-
 - i) The operation, administration, cleanliness and fire safety of the premises, including compliance with the Plan of Management and Emergency Management and Evacuation Plan, must be provided to the premises. The name and 24 hour contact phone number of the accommodation manager or resident caretaker must be prominently displayed in the reception area of the premises.
 - ii) The premises is to operate in accordance the approved Plan of Management, at all times.
 - iii) The lodgers are obligated to comply with the House Rules, at all times.
- b) The applicant is required to become party to a Resident Consultative Committee (if required to be established by the Council) to respond to and address any issues that may arise from the land use that are contrary to the material amenity of the landowners of this neighbourhood. If this condition is enacted by Council a Committee Charter is to be drawn to respond to issues including but not limited to the following:
 - i) Anti-social behaviour;
 - ii) Noise that is objectionable;
 - iii) Noise at unreasonable hours of the day;
 - iv) Building maintenance;
 - v) Responsibilities of the on-site manager; and
 - vi) Occupancy number.

104. All intruder alarms shall be fitted with a timing device in accordance with the requirements of *Regulation 12A of the Noise Control Act, 1975, and AS2201, Parts 1 and 2- 1978 Intruder alarm systems*.

105.

- a) A copy of the annual fire safety statement and current fire safety schedule for the premises must be prominently displayed in the reception area of the boarding house; and
- b) A floor plan must be permanently fixed to the inside of the door of each sleeping

room to indicate the available emergency egress routes from the respective sleeping room.

106. The use of the external communal open space or common areas shall be restricted between 7.30am to 9.00pm, seven days a week.
107. That a maximum of ~~seven (7)~~ **one (1)** single occupancy rooms and ~~seven (7)~~ **thirteen (13)** double occupancy rooms including one of the rooms allocated for the on-site boarding house manager are to be provided and that a maximum of ~~twenty-one (21)~~ **twenty-seven (27)** people **(including boarding house manager)** are to be accommodated in the boarding house in anyone time.

(Condition modified – DA-14/154/2)

108. That caretakers/managers unit is to be provided at all times, and a caretaker is to be employed to manage and maintain the boarding house.
109. The building is approved as a boarding house for use and occupation by lodgers only. It shall not be used for other residential occupation.
110. Bin facilities designed for an attractive visual appearance & function or located behind the building line out of public view. Location to be such that the containers can be easily moved to a nominated Council collection point; and Compost bins being located to the rear of the dwelling.
111. All vehicles shall enter and exit the premises in a forward direction.
112. The ongoing maintenance of the nature strip shall be undertaken by the occupier/owner. Maintenance shall include mowing, the removal of weeds and rubbish and maintaining a good, even coverage of grass at all times. Maintenance does not include pruning, trimming, shaping or any work to street trees located on the nature strip under any circumstances at any time. Pruning is undertaken by Council only.
113. The operation of the premises shall be conducted in such a manner as not to interfere with or materially affect the amenity of the neighbourhood by reason of noise, vibration, odour, fumes, vapour, steam, soot, ash, dust, waste water, waste products, grit, oil, or otherwise.
114. A person must not cause or permit an air conditioner to be used on residential premises in such a manner that it emits noise that can be heard within a habitable room in any other residential premises (regardless of whether any door or window to that room is open):
- a) Before 8 am or after 10 pm on any Saturday, Sunday or public holiday, or
 - b) Before 7 am or after 10 pm on any other day.
115. The premises shall be maintained in a clean, sanitary condition and kept in a satisfactory state of repair at all times.
116. All parking areas shown on the approved architectural plans shall be set aside for parking purpose only and shall not be used for storage of goods or machinery.

117. Five (5) off-street car parking bays (four for the boarder and one for the on-site manager) shall be provided on-site in accordance with the approved plans.
118. An automatic smoke detection and alarm system is to be provided throughout the common areas of the building in accordance with the BCA and AS 1670.1.
119. Smoke alarms connected to the consumer mains power are to be installed in each bedroom in accordance with the BCA and AS3786.
120. The operation of all plant and equipment shall not give rise to an equivalent continuous (LAeq) sound pressure level at any point on any residential property greater than 5dB(A) above the existing background LA90 level (in the absence of the noise under consideration).

The operation of all plant and equipment when assessed on any residential property shall not give rise to a sound pressure level that exceeds LAeq 50dB(A) day time and LAeq 40 dB(A) night time.

The operation of all plant and equipment when assessed on any neighbouring commercial/industrial premises shall not give rise to a sound pressure level that exceeds LAeq 65dB(A) day time/night time.

For assessment purposes, the above LAeq sound levels shall be assessed over a period of 15 minutes and adjusted in accordance with EPA guidelines for tonality, frequency weighting, impulsive characteristics, fluctuations and temporal content where necessary.

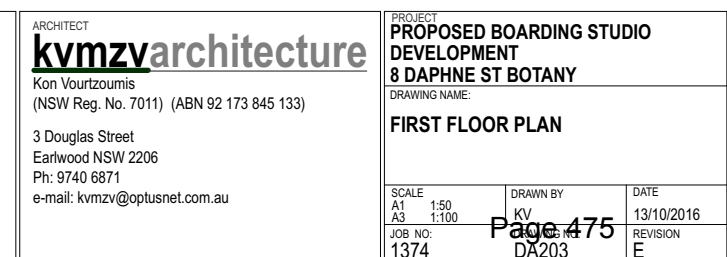
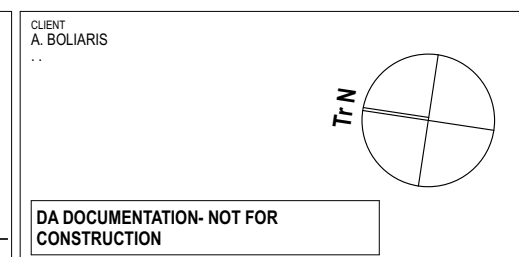
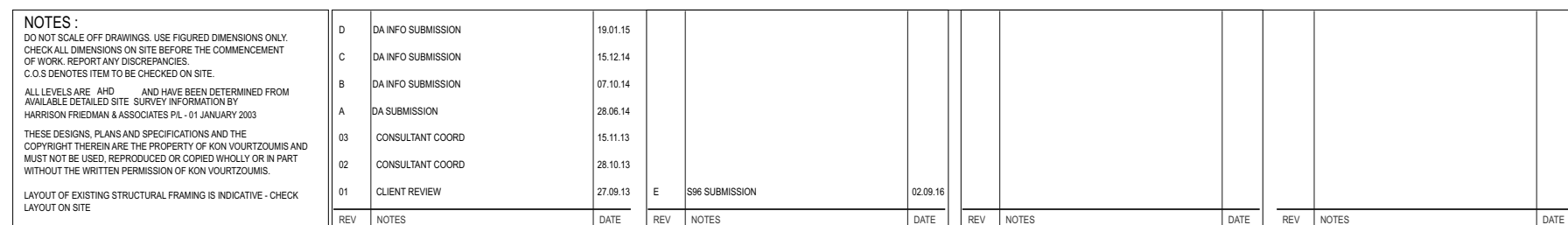
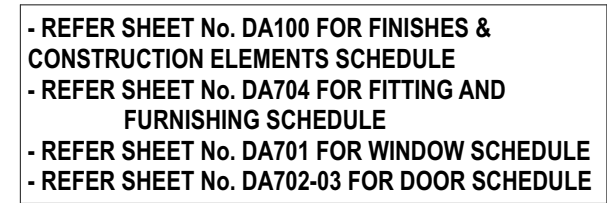
121. All waste and recycling containers shall be stored in the designated waste storage area. The waste containers shall not be over filled and the lids kept closed at all times except when material is being put in them. The Owners Corporation or building owner shall be responsible for the following:
 - a) Where waste and recycling containers need to be moved to the street,
 - b) Movement of the waste and recycling containers to the footpath for collections, and the return of waste and recycling containers to the waste storage area,
 - c) Refuse containers are to be returned to the waste storage area on the same day as the refuse is collected,
 - d) Refuse containers are not to be left on the street for longer than 24 hours.
 - e) Cleaning and maintaining the waste storage area, any drainage installations and waste collection containers.
 - f) Providing and maintaining signage and information to uses to encourage recycling.
122. The applicant being informed that this approval shall be regarded as being otherwise in accordance with the information and particulars set out and described in the Development Application registered in Council's records as Development Application No. 14(154) dated as 8 July 2014, *as modified by DA-14(154)/2*, and that any alteration, variation, or extension to the use, for which approval has been given, would require further approval

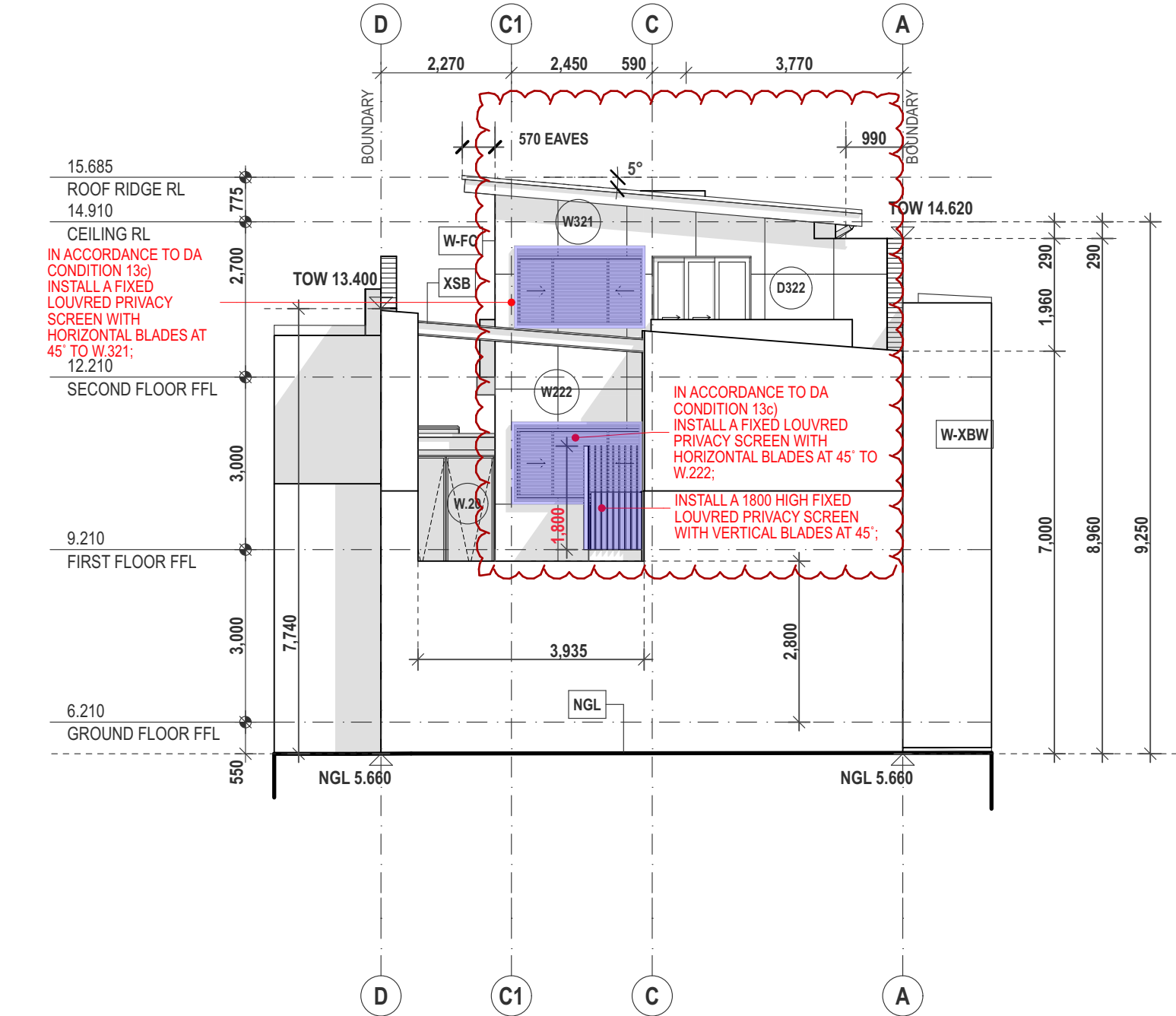
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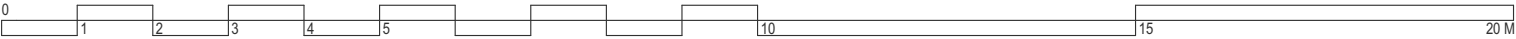
123.

- a) That before entering a lease occupancy agreement, all tenants and occupiers of the development are to be advised by the owner of the building that residents are not eligible to participate in on-street resident parking schemes.
- b) Prior to the issue of the occupation certificate, a sign to this effect shall be located in a prominent place, to Council's satisfaction, such as on a the notice board in the communal room, where it can easily be observed and read by persons entering the building.





1 NORTH ELEVATION
Scale 1:100



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D	DA INFO SUBMISSION	19.01.15			
C	DA INFO SUBMISSION	15.12.14			
B	DA INFO SUBMISSION	07.10.14			
A	DA SUBMISSION	28.06.14			
03	CONSULTANT COORD	15.11.13			
02	CONSULTANT COORD	28.10.13			
01	CLIENT REVIEW	27.09.13			
REV	NOTES	DATE	REV	NOTES	DATE
			E	S96 SUBMISSION	02.09.16

CONSTRUCTION REFERENCES AND

ABBREVIATIONS

REF	DESCRIPTIONS
AFFL###	ABOVE FINISHED FLOOR LEVEL ###
C-FC1	NEW TOP LEVEL FRAMED CEILING WITH FIBRE CEMENT LINING
C-PB1	NEW TOP LEVEL FRAMED CEILING WITH PLASTERBOARD LINING
COS	CHECK ON SITE
D-##/G	NEW GLAZED DOOR CONSTRUCTION - TO SCHEDULE
D-##/TP	TIMBER EXTERNAL DOOR- SOLID CORE CONSTRUCTION
D-##/V	VEHICULAR DOOR CONSTRUCTION - TO SCHEDULE
DP-S	SEALED 90MM CIRCULAR UPVC DOWNSPIPE
DRV-C	NEW DRIVEWAY CROSSING
F	FIXED GLAZING
F-T2	EXTERNAL CONCRETE PAVERS
F##-CP	NOMINAL (#) CONCRETE OR TIMBER FLOOR STRUCTURE FINISHED WITH NEW CARPET
F##-T1	NOMINAL (#) CONCRETE OR TIMBER FRAMED FLOOR- WITH ENTRY AREA TILE FINISH
F##-T3	NOMINAL (#) CONCRETE OR TIMBER FRAMED FLOOR - WITH PRIVATE OUTDOOR TILE FINISH
F##-T4	NOMINAL (#) CONCRETE OR TIMBER FLOOR FLOOR- WITH LIVING AREA INTERNAL TILE FINISH
F##-T5	NOMINAL (#) CONCRETE OR TIMBER FLOOR FLOOR- WITH L'DRY AREA INTERNAL TILE FINISH
F##-T6	NOMINAL (#) CONCRETE OR TIMBER FLOOR FLOOR- WITH BATHROOM AREA INTERNAL TILE FINISH
FC#-SC	NOMINAL (#) CONCRETE FLOOR LEVEL- WITH STAMPED CONCRETE FINISH
FC#-STAIR	NEW CONCRETE STAIR - NOMINAL LOCATION AND FINISH (#)
FC#-TC	NOMINAL (#) CONCRETE FLOOR LEVEL- TROWLED CONCRETE FINISH
FC1-##	NEW GROUND LEVEL CONCRETE FLOOR - NOMINAL FINISH (#)
FC2-##	UPPER LEVEL INTERNAL CONCRETE FLOOR - NOMINAL FINISH (#)
FC3-##	GROUND FLOOR CONCRETE BALCONY/PORCH/ TERRACE FLOOR CONSTRUCTION- NOMINAL FINISH (##)
FC3-##	UPPER FLOOR CONCRETE BALCONY/ROOF SLAB CONSTRUCTION- NOMINAL FINISH (##)
FL-TFW/MR	LIGHTWEIGHT WALL TO METAL ROOF FLASHING
FSL	FINISHED SURFACE LEVEL
FT-C	RC STRIP FOOTINGS TO STRUCTURAL ENGINEER'S DETAILS
FT-CI	RC THICKENED EDGE FOOTINGS INTEGRATED WITH SLAB ON GROUND TO STRUCTURAL ENGINEER'S DETAILS

FXC1-##	RETAIN AND REFURBISH EXISTING GROUND LEVEL CONCRETE FLOOR - NOMINAL FINISH (#)
HWU-G	INSTANTANEOUS GAS HOTWATER UNITS
JNRY	JOINERY - ROBES, CUPBOARDS AND VANITIES
KITCH	KITCHEN JOINERY AND APPLIANCES
LB	LETTER BOXES.
MF	METAL FASCIA- COLORBOND
NGL	NATURAL GROUND LEVEL
PS- AL	PRIVACY SCREEN- ALUMINIUM
R-ZSR	NEW FRAMED ROOF WITH METAL CLADDING
RWT-U	UNDERGROUND RAINWATER TANK(S)
SB	STEEL BEAM TO ENGINEER'S DETAILS
SL-##	SKLYLIGHT CONSTRUCTION
TGB	TOUGHEN GLASS BALUSTRADE
TOW	TOP OF WALL
W-##	NEW WINDOW & GLAZED WALL CONSTRUCTION - TO SCHEDULE
W-##/GB	GLAZED BRICK WINDOW CONSTRUCTION

CLIENT A. BOLIARIS ..
DA DOCUMENTATION- NOT FOR CONSTRUCTION

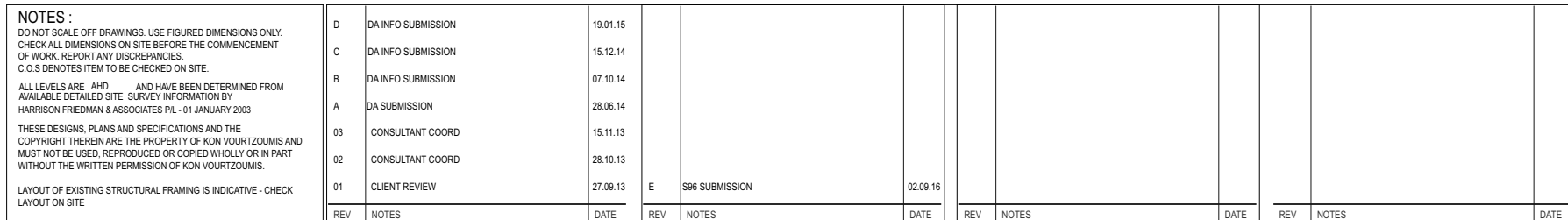
ARCHITECT kvmzvarchitecture Kon Vourtzoumis (NSW Reg. No. 7011) (ABN 92 173 845 133) 3 Douglas Street Earlwood NSW 2206 Ph: 9740 6871 e-mail: kvmzv@optusnet.com.au	PROJECT PROPOSED BOARDING STUDIO DEVELOPMENT 8 DAPHNE ST BOTANY DRAWING NAME: ELEVATIONS	SCALE A1 1:50 A3 1:100 JOB NO: 1374	DRAWN BY KV DA303	DATE 13/10/2016 REVISION E
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FC3-##	Summary	UPPER FLOOR CONCRETE BALCONY/ROOF SLAB CONSTRUCTION- NOMINAL FINISH (##)
	Construction	CONCRETE STRUCTURE: RC SUSPENDED SLAB TO ENGINEERS DETAILS WITH FALLS. PROVIDE 180 HIGH CONCRETE SETDOWN AT DOOR AND EXTERNAL WALL FLOOR JUNCTION, AND 150 HIGH HOB TO SURROUNDING WALLS. SLAB TO SUPPORT EXTERNAL BRICK BALUSTRADE WALL TO ENGINEER'S DETAILS.
	Finishes	FINISH: SELECTED TILED FINISH ON MORTAR BED ON WATERPROOFING MEMBRANE LAID WITH FALLS TO RAINWATER OUTLET.
	Waterproofing	MEMBRANE: ELASTIC POLYMER MEMBRANE WITH TO "CONIPUR" OR 3 LAYERS OF TORCH APPLIED BITUMINOUS MEMBRANE EQUAL TO "TREMCO" - TO WATERPROOFING CONTRACTOR'S WARRANTED SPECIFICATION. PROVIDE R2.0 INSULATION TO UNDERSIDE WITH PB CEILING WHERE BALCONY/ TERRACE OCCURS ABOVE INTERNAL SPACE. PROVIDE ACOUSTIC LAGGING TP ANY DRAINAGE PIPES AND HEAT PROTECTION COVERS IN CEILING AREA OF RECESSED LIGHT FITTINGS.
	Fire & Acoustic Insulation	WHERE LOCATED ABOVE HABITABLE SPACE PROVIDE ACOUSTIC RATING OF $L_{nw} + C_i > 62$ & FIRE RATING: FRL 60/60/60. IN ADDITION TO MAIN CONSTRUCTION INSTALL ACOUSTIC MATTING UNDER TILES EQUAL TO "REGUPOL" ACCORDANCE TO MANUFACTURER'S SPECIFICATIONS OR 65MM THICK (8KG/CU.M DENSITY) BULK INSULATION BETWEEN ON 28MM FURRING CHANNELS ON RESILIENT MOUNTS AND 9MM SET FC SHEET CEILING TO UNDERSIDE.

Compliance STRUCTURE TO ENGINEER'S DETAILS AND CERTIFICATION.
WATERPROOF MEMBRANE AND INSULATION TO BCA AND
APPLICATOR'S WARRANTED DETAILS AND METHOD.

FC#-SC	Summary	NOMINAL (#) CONCRETE FLOOR LEVEL- WITH STAMPED CONCRETE FINISH
	Construction	RC SLAB AS SPECIFIED FOR REFERENCE FC1-##
	Finishes	FINISHES: SELECTED STAMPED CONCRETE WITH DECORATIVE OXIDE AND TEXTURED AND SEALED FINISH
	Insulation	As specified for main construction. Not required for outdoor or non-habitable room situations.
	Compliance	METHOD AND MATERIALS APPLICATOR'S/DISTRIBUTOR'S RECOMMENDED APPLICATION AND MAINTENANCE SPECIFICATION. NON-SLIP RATING OF AT LEAST R11
FC#-TC	Summary	NOMINAL (#) CONCRETE FLOOR LEVEL- TROWLED CONCRETE FINISH
	Construction	RC SLAB AS SPECIFIED FOR REFERENCES FC1-## OR FC2-##
	Finishes	FINISHES: TROWEL FINISH
	Insulation	As specified for main construction. Not required for outdoor or non-habitable room situations.
	Compliance	As specified for main construction, NON-SLIP RATING OF AT LEAST R11



DA DOCUMENTATION- NOT FOR CONSTRUCTION

PROJECT			
PROPOSED BOARDING STUDIO			
DEVELOPMENT			
8 DAPHNE ST BOTANY			
DRAWING NAME:			
SECTIONS			
SCALE		DRAWN BY	
A1	1:50	KV	
A3	1:100	KV	
JOB NO:		DATE	
1374		13/10/02	
		REVISION	
		F	



NOTES :															
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REV	NOTES	DATE	REV	NOTES	DATE	REV	NOTES	DATE	REV	NOTES	DATE	REV	NOTES	DATE	

UNITS WITH > 4SQ.M BALCS	6 /14
	42.9%

ARCHITECT

kvmzvarchitecture

Kon Vourtzourmis
(NSW Reg. No. 7011) (ABN 92 173 845 133)

3 Douglas Street
Earlwood NSW 2206
Ph: 9740 6871
e-mail: kvmzv@optusnet.com.au

PROJECT
**PROPOSED BOARDING STUDIO
DEVELOPMENT
8 DAPHNE ST BOTANY**

DRAWING NAME:
SITE PLAN

SCALE
A1 1:100
A3 1:200

DRAWN BY
KV

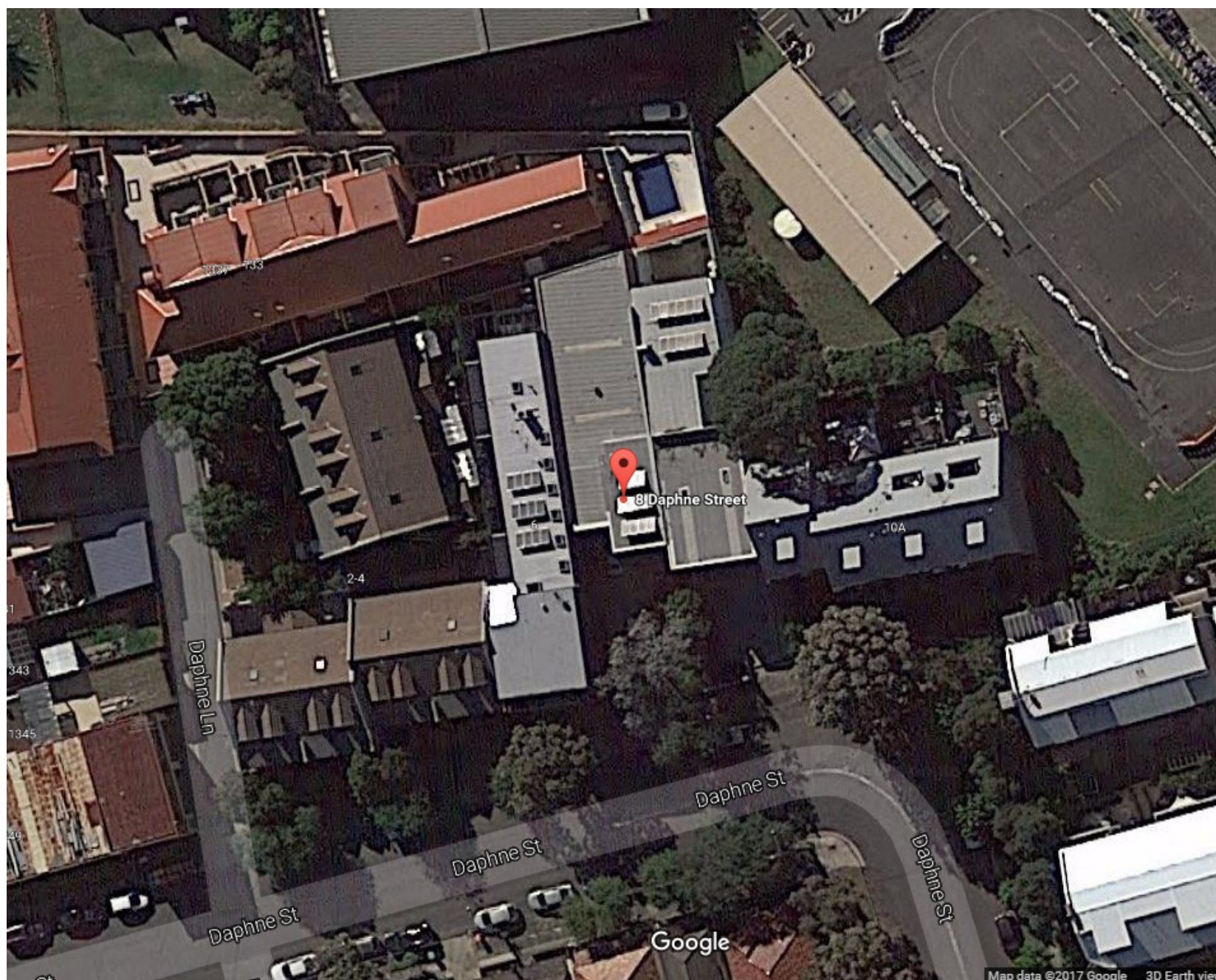
DATE
19/01/2015

JOB NO:
1374

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Page 480



Council Meeting

8/03/2017

Item No	9.11
Property	ROAD 194 The Grand Parade Ramsgate Beach (Opposite 277 The Grand Parade)
Proposal	Replacement of existing bus shelter advertising panel with new digital advertising panel
Cost of Development	\$5000
Report by	Creative Planning Solutions Pty Ltd
Application No	DA-2017/123

Council Resolution

Minute 2017/035

Resolved by the Administrator:

That Development Application No. 2017/123 which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 194 The Grand Parade, Ramsgate Beach (Opposite 277 The Grand Parade) be APPROVED pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the attached conditions of consent.

Officer Recommendation

That Development Application No. 2017/123 which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 194 The Grand Parade, Ramsgate Beach (Opposite 277 The Grand Parade) be APPROVED pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the attached conditions of consent.

Attachments

- 1 Planning Assessment Report
 - 2 Draft Notice of Determination
 - 3 Compliance Checklist
 - 4 Bus Shelter Drawing
 - 5 Advertising Panel Drawing
-

Location Plan



BAYSIDE COUNCIL

COUNCIL REPORT

1. APPLICATION DETAILS

Property:	ROAD 194 The Grand Parade, Ramsgate Beach (Opposite 277 The Grand Parade) NSW 2217
Proposal:	Replacement of existing bus shelter advertising panel with new digital advertising panel.
Date Lodged:	11 October 2016
File Number:	DA-2017/123
Owner:	Bayside Council
Author:	James Arnold – Creative Planning Solutions Pty Limited
Coordinator:	Marta Gonzalez-Valdes – Coordinator Major Assessment Team

2. REPORT SUMMARY

This report considers a Development Application (DA) which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 194 The Grand Parade, Ramsgate Beach (Opposite 277 The Grand Parade).

No significant issues were identified in the assessment and some minor issues have been resolved via conditions of consent which are discussed as follows:

- SEPP 64 *Draft Transport Corridor Outdoor Advertising and Signage Guidelines* – The draft guidelines contain specific criteria for digital advertising. These criteria relate to technical details of illuminance levels, dwell times of advertisements etc. that are unreasonable to request at the Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria from the draft guidelines.
- SEPP 64 Expiration of Consent – Clause 14 requires that consents granted under the SEPP expire 15 years after the date the consent becomes effective and operates. Accordingly, it is recommended that a condition is imposed that expires the consent after 15 years.
- SEPP 64 Name/logo location and size – Clause 20 contains requirements for the location and size of the name or logo of the person who owns or leases the advertisement. Insufficient details have been provided to determine compliance and as such it is recommended a condition is imposed requiring compliance.

- RDCP2011 Electrical conduits – Part 6.4 Control 5 requires that electrical conduits of illuminated signs be taken directly into the building or otherwise screened to the satisfaction of Council. Insufficient details have been provided of the proposed electrical arrangement for the digital advertising panel to determine compliance and as such it is recommended a condition is imposed requiring compliance.

Having regard to the matters for consideration in Section 79C(1) of the Environmental Planning and Assessment Act 1979 (the Act), the following has been determined:

- When assessed against the relevant environmental planning instruments pertaining to the proposed development, including the State Environmental Planning Policy No. 64 – Advertising and Signage and the Rockdale Local Environmental Plan 2011, the proposal satisfactorily complies with the applicable objectives and provisions;
- When assessed against the relevant provisions of the Rockdale Development Control Plan 2011, the proposal complies with the relevant development controls. Where non-compliances with development controls have been identified, these are considered to be satisfactorily justifiable;
- The likely impacts of the proposed development have been considered and determined to be minimal and be satisfactory;
- The site is considered suitable for the proposed development; and,
- Having regard for the level of compliance with the applicable planning controls, the proposed development is considered to be in the public interest.

3. RECOMMENDATION

That Development Application No. 2017/123 which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 194 The Grand Parade, Ramsgate Beach (Opposite 277 The Grand Parade) be APPROVED pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the attached conditions of consent.

4. BACKGROUND

The subject DA was lodged with Council on 11 October 2016. The DA was notified to the public from 21 October 2016 to 8 November 2016. No submissions were received.

A review of the subject site's development history using Council's online Development Application search returned with no results. This suggests that the subject site has not been subject to any works requiring Council approval since 1 July 2004, since the ePlanning portal applies to applications submitted after 1 July 2004.

5. PROPOSAL

Council is in receipt of Development Application DA-2017/123 at 194 The Grand Parade, Ramsgate Beach (Opposite 277 The Grand Parade) which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel.

Details of the proposed development are as follows:

- Remove the existing static-scrolling poster advertising panel,
- Install a LED digital advertising panel where the existing panel is located. The new panel has the following specifications:
 - Two sided,
 - 1895mm x 1065mm dimensions,
 - 2m² each side of panel,
 - Maximum height of 2.492m above the footpath level.

The submitted Statement of Environmental Effects provides the following additional details about the proposed advertising panel:

The advertisements will be on a 10 second dwell time with instantaneous transitioning between advertisements. No animation or dynamic digital display is proposed... The panel has been designed to adopt the national guidelines for digital display illumination, brightness, and transition timeframes, taking into account day/night time transitions, as well as ambient lighting.

6. EXISTING AND SURROUNDING USES

The subject site is the road reservation of The Grand Parade. The address of the subject site is 194 The Grand Parade, Ramsgate Beach, and the bus shelter where the proposed advertising is to be located is Opposite 277 The Grand Parade, Ramsgate Beach on the eastern side of the road between the intersections with Ramsgate Road and Alice Street.

The Grand Parade is a classified road that runs north-south along Botany Bay from Dolls Point in the south to Brighton Le Sands in the north. The Grand Parade is a four to six lane road with travel lanes in both directions and parking lanes along portions of the road. Adjacent to the bus shelter are two travel lanes and a bus stopping lane in each direction.

The bus shelter which the proposed advertising panel will be installed on, is a typical Sydney bus shelter with one open side to the street. The bus shelter is constructed with metal posts with a glass back, an advertising panel on the side, and a flat metal roof. The bus shelter sits on the concrete footpath. The existing advertising panel is two sided and contains static-scrolling poster advertisements.

In the immediate surrounds of the bus shelter are some small and medium sized mature trees, grassed areas, a toilet block, and Ramsgate Beach. The locality is characterised by the natural features of Cook Park and the beach on the eastern side of The Grand Parade and the Ramsgate shops and low density residential development western side of The Grand Parade.

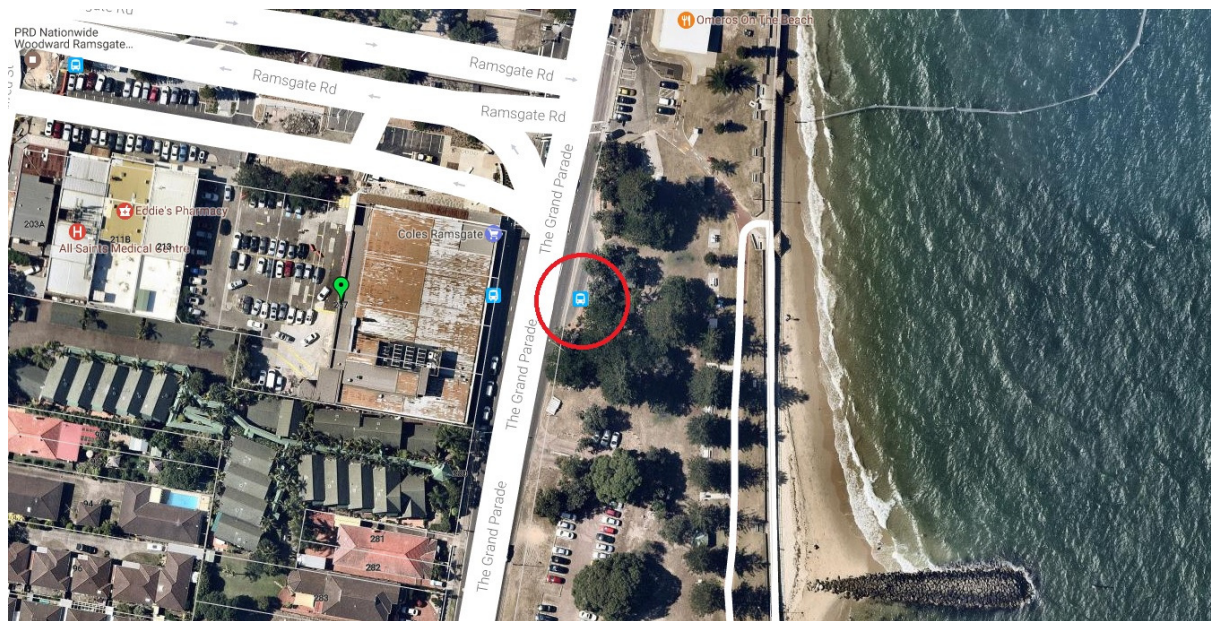


Figure 1: Location of bus shelter where the digital advertising panel is proposed circled in red
(Source: nearmap.com.au)



Figure 2: Bus Shelter and existing advertising panel to be replaced looking south
(Source: CPS, 2016)

7. REFERRALS

7.1. EXTERNAL

The Development Application was referred to the following external authorities:

- Roads and Maritime Services (RMS) – The development application was referred to the RMS on 20 October 2016 and a response was received on 17 November 2016. The response stated that the development application was not required to be referred to the RMS and as such no comment was provided.
- State Transit Authority (STA) – The development application was referred to STA and a response was received on 11 November 2016. The response stated that no objection was raised to the works however STA requested notification when the works will be carried out and if the requirement to close the bus stop during the construction is required. These requests are recommended to be imposed as conditions of consent.

7.2. INTERNAL

The Development Application was not referred to any internal departments:

8. PLANNING CONSIDERATIONS - SECTION 79C OF THE EP&A ACT 1979

The following is an assessment of the proposed development under the provisions of Section 79C(1) of the *Environmental and Planning Assessment Act 1979* (the Act).

8.1 PROVISIONS OF ENVIRONMENTAL PLANNING INSTRUMENTS (S.79C(1)(a)(i))

8.1.1 *State Environmental Planning Policy No. 64 – Advertising and Signage*

Clause 6 – Signage to which this policy applies

SEPP 64 is considered to apply to the proposed development which is discussed below.

The proposed development meets the definition of ‘signage’ under the provisions of SEPP 64. This is because the proposed sign constitutes an ‘advertisements’ to which Part 3 of SEPP 64 applies.

In accordance with Clause 9, the proposed development is considered to be an ‘advertisement’ (which is a type of signage) and an ‘advertising structure’ as it is not a business identification sign, building identification sign, signage that is exempt development, or signage on vehicles. The relevant definitions from the SEPP are provided below.

advertisement means signage to which Part 3 applies and includes any advertising structure for the advertisement.

Note. Part 3 applies to all signage other than business identification signs, building identification signs, signage that is exempt development, or signage on vehicles

advertising structure means a structure or vessel that is principally designed for, or that is used for, the display of an advertisement.

Clause 6 of SEPP 64 outlines the following with regard to signage to which SEPP 64 applies:

(1) *This Policy applies to all signage:*

- a) *that, under another environmental planning instrument that applies to the signage, can be displayed with or without development consent, and*
- b) *is visible from any public place or public reserve,*

except as provided by this Policy.

*Note. **Public place** and **public reserve** are defined in section 4 (1) of the Act to have the same meanings as in the Local Government Act 1993.*

(2) *This Policy does not apply to signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it, or that is exempt development under this Policy.*

In accordance with Clause 6, SEPP 64 applies to the proposed development as it can be displayed with development consent under the RLEP2011 (refer to permissibility discussion under RLEP section of this report) and will be visible from a public place or public reserve.

It is noted that the proposal does not satisfy Clause 6(2) as the proposal is not considered to meet the exempt development provisions under other environmental planning instruments. The proposal is not identified as exempt development under RLEP2011, nor is it identified under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Furthermore, the proposal would not constitute exempt development under the provisions of *State Environmental Planning Policy (Infrastructure) 2007*.

Given the above, SEPP 64 is considered to apply to the proposed development and the following are the relevant provisions from the SEPP that have been taken into consideration:

Clause 3 – Aims, objectives etc

The proposed advertising panel is considered to be consistent with the aims of the SEPP for the following reasons:

- The proposal will replace an existing scrolling poster bus shelter advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel providing a modern upgrade which is compatible with the desired amenity and visual character of the Ramsgate Beach area.
- The advertising panel will be located on the side of a bus shelter which provides for an effective and efficient means of communication and given it is adjacent to a classified road it is considered to be a suitable location.

- The proposed modern digital advertising panel is considered to be of high quality design and finish.

Clause 10 – Prohibited advertisements

As discussed above, the proposed development is considered to be an ‘advertisement’ in accordance with the definitions contained within Clause 4 and the provisions of Clause 9. Clause 10 stipulates that the display of advertisements is prohibited in the following zones: environmentally sensitive area, heritage area, natural or other conservation area, open space, waterway, residential, scenic protection area, national park, and nature reserve.

The proposed bus stop advertisement is located on land zone SP2 – Infrastructure which is not a listed zone. Accordingly, the development is not prohibited under this clause.

Clause 12 – Consent Authority

The proposed advertisement is to be located in the Bayside Local Government Area and Cl. 12(c), (d), or (e) do not apply. Therefore, Bayside Council is the consent authority.

Clause 13 – Matters for consideration

The matters for consideration stipulated in Clause 13(1) are considered to apply to the subject proposal as Council is the consent authority and Clause 18 or 24 do not apply. Therefore, the matters for consideration for the subject Development Application are as follows:

a) is consistent with the objectives of this Policy, and

As discussed above, the proposal is considered to be consistent with the objectives of the SEPP.

b) assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and

The proposal has been assessed in accordance with the assessment criteria in Schedule 1 and is considered acceptable in terms of its impacts.

c) satisfies any other relevant requirements of this Policy

The proposal satisfies the other relevant requirements of the SEPP. It is noted that the, although not a matter for consideration for the proposal, the *Draft Transport Corridor Outdoor Advertising and Signage Guidelines* have been considered as it provides specific requirements for digital advertising. These criteria relate to technical details of illuminance levels, dwell times of advertisements etc. that are unreasonable to request at the Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria from the draft guidelines.

Clause 14 – Duration of consents

In accordance with this clause, any consent granted for this Development Application must expire 15 years after the date on which the consent becomes effective and operates.

It is noted that the Bayside Council had not adopted any policy to reduce the 15 year expiration time prior to the commencement of the SEPP and the area is not considered to be undergoing change in accordance with an EPI to change the nature of the area. Accordingly, the 15 year expiration clause applies and it is recommended a condition of consent to this effect is imposed.

Clause 20 – Location of certain names and logos

Insufficient information has been provided to determine the location and size of the name/logo of the owner/leaser of the proposed advertisement. It is recommended a condition of consent is included to ensure compliance with this clause.

8.1.2 Rockdale Local Environmental Plan 2011

The following are relevant matters from the LEP that have been taken into consideration.

Clause 2.1 – Land Use Zones

The Grand Parade road corridor is zoned SP2 – Infrastructure. Within the SP2 zone, development permitted with consent includes:

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.

The purpose shown on the Land Zoning Map where the advertising is proposed is 'Classified Road'. Accordingly, the road and any development that is ordinarily incidental or ancillary to development for the purpose of a Classified Road is also permitted with consent. All other forms of development are identified as being prohibited within the SP2 zone, except that for the purposes of 'roads' which is permissible without consent.

The proposed development is considered to be for both an 'advertisement' and the associated 'advertising structure' on which the advertisement is to be displayed. The RLEP refers to the *Environmental Planning and Assessment Act 1979* for the relevant definitions which are as follows.

advertisement means a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

advertising structure means a structure used or to be used principally for the display of an advertisement.

Given the above, for the proposed advertisement/advertising structure to be permissible in the zone, it must be considered as *ordinarily incidental or ancillary* to a Classified Road.

It is considered that the provision for *ordinarily incidental* to development for a Classified Road would reasonably include a bus shelter advertising panel in the particular form proposed. The reason for this is the high prevalence of bus shelter advertisements in the particular form and scale that is proposed. That is, the advertising panel forms the side of the bus shelter and is fully integrated into and fundamental to the structure and functioning of the bus shelter as would be ordinarily found on many, if not most, bus shelters on Classified Roads across NSW. The fundamental aspect of what makes the proposed advertising panel *ordinarily incidental*, is that it takes the form of a bus shelter advertising panel that would be ordinarily encountered within a bus shelter on a Classified Road. Therefore, to provide further clarity, this argument would not apply to a bus shelter advertising panel which is not ordinarily encountered, such as if it protruded above the roof of the bus shelter.

Accordingly, it is considered the proposed advertising panel is permitted with consent in the zone.

Clause 4.3 – Height of Buildings

There is no maximum height of buildings specified for the subject site.

It is noted that the maximum height of the proposed advertising panel is 2.492m above the footpath level below.

Clause 4.4 – Floor Space Ratio

There is no maximum floor space ratio specified for the subject site.

It is noted that the proposed advertising panel does not constitute gross floor area and therefore does not have a floor space ratio.

Clause 5.9 – Preservation of trees or vegetation

Clause 5.9 of LEP2011 prescribes that a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by development consent, or a permit granted by the Council.

The proposed digital advertising panel will simply replace the existing advertising panel and will not impact any trees or vegetation.

Accordingly, the proposed development is considered to satisfy Clause 5.9.

Clause 5.10 Heritage Conservation

The proposed advertising panel will be located adjacent to a heritage item (I168) known as Cook Park which is of local significance. The digital advertising panel provides an upgrade to

the existing panel it will replace which is considered to be an improvement to the heritage values of the adjacent park.

Accordingly, there are no heritage concerns with the proposed development pursuant to Clause 5.10.

Clause 6.1 – Acid Sulfate Soils

The subject site has been identified as being affected by Acid Sulfate Soils (ASS) – Class 3. The proposal does not involve any significant disturbance of the soils that would trigger a requirement for an Acid Sulfate Soils Management Plan. Accordingly, the proposal satisfies Clause 6.1.

8.2 PROVISIONS OF ANY PROPOSED INSTRUMENT THAT IS OR HAS BEEN THE SUBJECT OF PUBLIC CONSULTATION UNDER THIS ACT AND THAT HAS BEEN NOTIFIED TO THE CONSENT AUTHORITY (S.79C(1)(a)(iii))

No draft environmental planning instruments have been identified that are relevant to the proposed development.

8.3 PROVISIONS OF DEVELOPMENT CONTROL PLANS (S.79C(1)(a)(iii))

8.3.1 Rockdale Development Control Plan 2011

The proposed development has been assessed against the *Rockdale Development Control Plan 2011* (RDCP 2011). For full reference of the RDCP 2011 assessment please refer to the detailed compliance check document attached to this report. A summary of compliance for the proposed development is provided below:

Part 6.4 – Advertising and Signage

Part 6.4 of the DCP relates to advertising and signage and therefore applies to the proposed development. It has been determined that the proposal complies with the relevant objectives and controls within this part, with the exception of one control which can be conditioned to comply as discussed below.

Part 6.4 Control 5 requires that electrical conduits of illuminated signs be taken directly into the building or otherwise screened to the satisfaction of Council. Insufficient details have been provided of the proposed electrical arrangement for the digital advertising panel to determine compliance and as such it is recommended a condition is imposed requiring details be submitted and compliance achieved prior to Construction Certificate.

8.4 PROVISIONS OF REGULATIONS (S.79C(1)(a)(iv))

The provisions of the regulations have been considered in the assessment of this development proposal where relevant.

8.5 IMPACT OF DEVELOPMENT (S.79C(1)(b))

8.5.1 Road safety

The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. The *Draft Transport Corridor Outdoor Advertising and Signage Guidelines*, have been considered in the assessment as they contain specific provisions relating to Digital Advertising. These criteria relate to technical details of illuminance levels, dwell times of advertisements etc, that are related to achieving a satisfactory level of road safety. Most of the technical details required to determine compliance have not been provided and are considered unreasonable to request at the Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria which will ensure a level of road safety is achieved in accordance with the draft guidelines.

8.5.2 Views and Vistas

The proposal will replace an existing bus shelter advertising panel with a new digital panel in the same location and the same size and dimensions. Accordingly, the view and vista to the adjoining Cook Park and Botany Bay is considered to be maintained as existing which is acceptable.

8.5.3 Character / Streetscape

The proposal will replace an existing scrolling poster bus shelter advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel. This is considered to provide a modern upgrade for the advertisement which is compatible with the desired amenity and visual character of the Ramsgate Beach area.

8.6 SUITABILITY OF THE SITE (S.79C(1)(c))

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Conditions of consent, including compliance with soil and erosion measures, and stormwater management are proposed to further minimise any impacts on the subject land or adjoining land as a result of the proposal.

The subject site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered and given the nature of the development and the long-standing use of the land for the purpose of a road, onsite investigation is not warranted.

There are no other major physical constraints or exceptional circumstances that would hinder the suitability of the site for the proposed development have been identified.

Accordingly, the site is considered suitable for the development.

8.7 SUBMISSIONS (S.79C(1)(d))

The DA was notified to the public from 21 October 2016 to 8 November 2016. No submissions were received.

8.8 PUBLIC INTEREST (S.79C(1)(e))

The proposed development is considered to be in the public interest.

9. CONCLUSION

This application has been assessed in accordance with the matters for consideration of Section 79C of the Act. The Development Application seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 194 The Grand Parade, Ramsgate Beach (Opposite 277 The Grand Parade).

The proposal has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979*. No significant issues have been identified and some minor issues have been resolved via conditions. The proposal is permissible in the SP2 – Infrastructure zone, the likely impacts are considered to be minimal and acceptable, and the development is considered to be suitable for the site and surrounding context.

Given the above, it is recommended that the application be approved pursuant to Section 80 of the Act and subject to the attached conditions of consent.

Our Ref: DA-2017/123
Contact: Marta M Gonzalez-Valdes 9562 1666

444-446 Princes Highway Rockdale NSW 2216
PO Box 21 Rockdale NSW 2216
T 1300 581 299 F 9562 1777
rcc@rockdale.nsw.gov.au
www.bayside.nsw.gov.au

Tract Consultants
8/80 Mount St
NORTH SYDNEY NSW 2060

NOTICE OF DETERMINATION

Issued in accordance with section 81(1a) of the *Environmental Planning and Assessment Act, 1979*

Application Number: DA-2017/123
Property: 194 The Grand Parade, RAMSGATE BEACH NSW
2217
ROAD 194B
ROAD 194C
Proposal: Replacement of existing bus shelter advertising panel
with new digital advertising panel

Authority:

Determination:

Date of determination:

Date consent commences:

Date consent lapses:

General Conditions

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. The term of this consent is limited to a period of five (5) years from the date of the original approval. The consent will lapse if the development does not commence within this time.
2. This consent expires 15 years after the date this consent becomes effective and operates. A new development application shall be submitted for any continuance of the use.
3. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Plan/Dwg No.	Drawn by	Dated	Received by Council
PDM, BOLDVU Outline Drawing Sheet 1-3	Manufacturing Resources International	23 May 2016	11 October 2016
Mero Ad (Mains) Digital (R-Box) - General Assembly Drawings Sheet 1-4	Adshell	24 February 2016	11 October 2016
Site Plan - Opposite 209 The Grand Parade, Monterey	Tract Consultants	August 2016	11 October 2016

4. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

Development specific conditions

The following conditions are specific to the Development Application proposal.

5. In accordance with the Draft Transport Corridor Outdoor Advertising and Signage Guidelines (prepared by NSW Department of Planning and Environment dated December 2015), the following must be adhered to:
 - a) Each advertisement must be displayed in a completely static manner, without any motion, for the approved dwell time as per criterion (d) below.
 - b) Message sequencing designed to make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.
 - c) The image must not be capable of being mistaken:
 - i) For a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device, or
 - ii) as text providing driving instructions to drivers.
 - d) Dwell times for image display are to be at least 10 seconds for areas where the speed limit is below 80km/h.
 - e) The transition time between messages must be no longer than 0.1 seconds.
 - f) Luminance levels must comply with Australian Standard AS4282 Control of the Obtrusive Effects of Outdoor Lightings. Table 3 of the Guidelines provides further guidance.
 - g) The images displayed on the sign must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.
 - h) The amount of text and information supplied on a sign should be kept to a minimum (for example no more than a driver can read at a short glance). Text should preferably be displayed in the same font and size. Table 6 in Section 3 of the Guidelines provides further guidance.
 - i) Any sign that is within 250 metres of a classified road and is visible from a school zone must be switched to a fixed display during school zone hours.
 - j) At any time, including where the speed limit in the area of the sign is changed, if detrimental effect is identified on road safety post installation of a digital sign, RMS reserves the right to re-assess the site which may result in a change to the dwell time or removal of the sign.

6. The following fees shall be paid to Council prior to installation of the sign. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
 - i. A Footpath Reserve Restoration Deposit of \$1,628.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
 - ii. An environmental enforcement fee of 0.25% of the cost of the works.
 - iii. A Soil and Water Management Sign of \$17.50.
7. Location of certain names and logos

The name or logo of the person who owns or leases an advertisement or advertising structure may appear only within the advertising display area. If the advertising display area has no border or surrounds, any such name or logo is to be located :

- i) within the advertisement, or
- ii) within a strip below the advertisement that extends for the full width of the advertisement.

The area of any such name or logo must not be greater than 0.25 square metres.

Electrical Conduits

Electrical conduits are to be taken directly into the bus shelter or otherwise screened to the satisfaction of Council.

Prior to commencement of works

The following conditions must be completed prior to the commencement of works.

8. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
9. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
 - i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - ii) building involves the enclosure of a public place,Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.
Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath

must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:

- (i) the vertical height above footpath level of the structure being demolished is less than 4m; or
- (ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must -

- (i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
- (ii) have a clear height above the footpath of not less than 2.1m;
- (iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and
- (iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

10. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
 - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
 - ii) where the erection of gates or fences has restricted access to metering equipment.

During demolition / excavation / construction

The following conditions must be complied with during demolition, excavation and or construction.

11. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
12. Adequate provisions are to be made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
 - Sediment control measures
 - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
 - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
13. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense.

Development consent advice

- a. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations

Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:

- choosing quiet equipment
 - choosing alternatives to noisy activities
 - relocating noise sources away from affected neighbours
 - educating staff and contractors about quiet work practices
 - informing neighbours of potentially noise activities in advance
 - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- b. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

Additional Information

- To confirm the date upon which this consent becomes effective, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979*. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- To confirm the likelihood of consent lapsing, refer to Section 95 of the Act. Generally consent lapses if the development is not commenced within five (5) years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- Section 82A allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.
- Under Section 97 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.

Should you have any further queries please contact Marta M Gonzalez-Valdes on 9562 1666

Luis Melim
Manager - Development Services

PRELIMINARY ASSESSMENT

DA No:	DA-2017/123
Date Plans Rec'd	11 October 2016
Address:	194 The Grand Parade, Ramsgate Beach (Opposite 277 The Grand Parade)
Proposal:	Replacement of existing bus shelter advertising panel with new digital advertising panel.
Constraints Identified:	Nil
Zoning:	SP2 – Infrastructure

SEPP 64 – Advertising and Signage	Proposal	Compliance
<p>Cl. 3 Aims, objectives etc.</p> <p>(1) This Policy aims:</p> <p>(a) to ensure that signage (including advertising):</p> <p>(i) is compatible with the desired amenity and visual character of an area, and</p> <p>(ii) provides effective communication in suitable locations, and</p> <p>(iii) is of high quality design and finish, and</p> <p>(b) to regulate signage (but not content) under Part 4 of the Act, and</p> <p>(c) to provide time-limited consents for the display of certain advertisements, and</p>	<p>The proposal will simply replace an existing scrolling poster bus shelter advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel. This is considered to provide a modern upgrade for the advertisement which is compatible with the desired amenity and visual character of the Ramsgate Beach area.</p> <p>The proposed digital advertising panel is located on the side of a bus shelter which provides for an effective and efficient means of communication and given it is adjacent to a classified road it is considered to be a suitable location.</p> <p>The proposed modern digital advertising panel is considered to be of high quality design and finish.</p> <p>Noted. The proposal is for the advertising panel itself and not for the future content of advertising on the panel.</p> <p>Noted.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

SEPP 64 – Advertising and Signage	Proposal	Compliance
(d) to regulate the display of advertisements in transport corridors, and	Noted.	Yes
(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.	The proposal does not trigger requirements for public benefits.	N/A
<p>Cl. 9 Advertisements to which this Part applies</p> <p>This Part applies to all signage to which this Policy applies, other than the following:</p> <p>(a) business identification signs,</p> <p>(b) building identification signs,</p> <p>(c) signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it,</p> <p>(d) signage on vehicles.</p>	<p>The proposed development meets the definition of 'signage' under the provisions of SEPP 64. This is because the proposed sign constitutes 'advertisements' to which Part 3 of SEPP 64 applies.</p> <p>In accordance with Clause 9, the proposed development is considered to be an 'advertisement' (which is a type of signage) and an 'advertising structure' as it is not a business identification sign, building identification sign, signage that is exempt development, or signage on vehicles.</p> <p>Therefore, Part 3 of SEPP 64 applies.</p>	Yes
<p>Cl. 10 Prohibited advertisements</p> <p>Despite the provisions of any other environmental planning instrument, the display of an advertisement is prohibited on land that, under an environmental planning instrument, is within any of the following zones or descriptions:</p> <p>environmentally sensitive area heritage area (excluding railway stations) natural or other conservation area open space waterway residential (but not including a mixed residential and business zone, or similar zones) scenic protection area national park nature reserve</p>	<p>The proposed bus stop advertisement is located on land zone SP2 – Infrastructure which is not a listed zone. Accordingly, the development is not prohibited under this clause.</p>	Yes
<p>Cl. 12 Consent Authority</p> <p>For the purposes of this Policy, the consent authority is:</p> <p>(a) the council of a local government area in the case of an advertisement</p>	<p>The proposed advertisement is to be located in the Bayside Local Government Area and Cl. 12(c), (d), or (e) do not apply. Therefore, Bayside Council is the consent</p>	N/A

SEPP 64 – Advertising and Signage	Proposal	Compliance
<p>displayed in the local government area (unless paragraph (c), (d) or (e) applies), or</p> <p>(b) the Maritime Authority of NSW in the case of an advertisement displayed on a vessel, or</p> <p>(c) the Minister for Planning in the case of an advertisement displayed by or on behalf of RailCorp on a railway corridor, or</p> <p>(d) the Minister for Planning in the case of an advertisement displayed by or on behalf of the RTA on:</p> <p>(i) a road that is a freeway or tollway (under the Roads Act 1993) or associated road use land that is adjacent to such a road, or</p> <p>(ii) a bridge constructed by or on behalf of the RTA on any road corridor, or</p> <p>(iii) land that is owned, occupied or managed by the RTA, or</p> <p>(e) the Minister for Planning in the case of an advertisement displayed on transport corridor land comprising a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M4 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel, or associated road use land that is adjacent to such a road.</p>	<p>authority.</p>	
<p>Cl. 13 Matters for consideration</p> <p>(1) A consent authority (other than in a case to which subclause (2) applies) must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:</p> <p>(a) is consistent with the objectives of this Policy, and</p> <p>(b) assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and</p>	<p>As detailed above, the proposal is consistent with the objectives of this policy.</p> <p>As detailed below, the proposal has been assessed in accordance with the assessment criteria in Schedule 1 and the proposal is acceptable in terms of its impacts.</p>	<p>Yes</p> <p>Yes</p>

SEPP 64 – Advertising and Signage	Proposal	Compliance
(c) satisfies any other relevant requirements of this Policy	As detailed in this table, the proposal satisfies the relevant requirements of this policy. It is noted that the <i>Draft transport corridor outdoor advertising and signage guidelines</i> have been considered although it is not a matter for consideration for the subject proposal, and the proposal is considered to satisfy the relevant provisions of that document.	Yes
<p>Cl. 14 Duration of consents</p> <p>Consent granted under this part ceases 15 years after date consent becomes effective, or a lesser period specified on the consent. May only specify less than 15 years if before the commencement of the SEPP the consent authority has adopted a policy for less than 15 years OR the area is undergoing change in accordance with an EPI to change nature of area</p>	<p>In accordance with this clause, any consent granted for this Development Application must include a condition that the consent will expire 15 years after the date on which the consent becomes effective and operates.</p> <p>It is noted that the Bayside Council had not adopted any policy to reduce the 15 year expiration time prior to the commencement of the SEPP and the area is not undergoing change in accordance with an EPI to change the nature of the area.</p>	Condition
<p>Cl. 20 Location of certain names and logos</p> <p>Name or logo of person who owns or leases an advertisement or structure may appear only within the advertising display area. If no borders or surrounds, the name or logo must be within the advertisement or within a strip below the advertisement that extends the full width.</p>	Insufficient information has been provided to determine the location and size of the name/logo of the owner/leaser of the proposed advertisement. It is recommended a condition of consent is included that stipulates the required location and maximum size of the name/logo of the owner/leaser.	Condition
The area of the name or logo must not be greater than 0.25sqm and this area is to be included in calculating the size of the display area.	As above.	Condition
Schedule 1 – Assessment Criteria		
1 Character of the area		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposal replaces an existing bus shelter advertising panel with a new digital advertising panel in the same location and of the same size and dimensions. Accordingly, the proposal maintains the existing character and is therefore considered compatible.	Yes

SEPP 64 – Advertising and Signage	Proposal	Compliance
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposal is consistent with bus shelter advertising in the locality and across the Sydney region.	Yes
2 Special Area		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal will simply replace an existing bus stop advertising panel with a new digital panel. The bus stop is located on a main road and therefore proposed advertising panel is consistent with the surroundings and will not detract from sensitive areas.	Yes
3 Views and Vistas		
Does the proposal obscure or compromise important views?	The proposal will simply replace an existing bus stop advertising panel with a new digital panel and as such view lines will remain as existing.	Yes
Does the proposal dominate the skyline and reduce the quality of vistas?	As above.	Yes
Does the proposal respect the viewing rights of other advertisers?	As above.	Yes
4 Streetscape, setting or landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed digital advertising panel is the same as the panel it will replace. This scale, proportion and form is consistent with typical bus shelter advertising in the streetscape.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal will provide a modern digital advertising panel replacing an older style scrolling panel. The modern panel is considered to contribute to visual interest in the streetscape.	Yes
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal will provide a modern digital advertising panel replacing an older style scrolling panel. The modern panel is considered to simplify the existing advertising as it will not require ongoing physical poster replacements.	Yes
Does the proposal screen unsightliness?	The proposal provides a high quality finish to the bus shelter which adds visual interest to an unsightly bus shelter.	Yes

SEPP 64 – Advertising and Signage	Proposal	Compliance
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposal does not protrude above buildings, structures or tree canopies in the locality with a maximum height of 2.492m above ground level.	Yes
Does the proposal require ongoing vegetation management?	The proposal is located in a bus shelter on hard paving which is not surrounded by vegetation and as such ongoing vegetation management is not required.	Yes
5 Site and building		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed advertising is fully integrated into the design of the bus shelter, forming the side wall. It is therefore considered compatible.	Yes
Does the proposal respect important features of the site or building, or both?	The proposed advertising is fully integrated into the design of the bus shelter, forming the side wall. It is therefore considered to respect the important features of the bus shelter.	Yes
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposal is considered to show innovation in that it is a modern digital advertising structure that is fully integrated into the existing bus shelter.	Yes
6 Associated devices and logos with advertisements and advertising structures		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as well as ambient lighting.	Yes
7 Illumination		
Would illumination result in unacceptable glare?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as well as ambient lighting.	Yes
Would illumination affect safety for pedestrians, vehicles or aircraft?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as	Yes

SEPP 64 – Advertising and Signage	Proposal	Compliance
	well as ambient lighting.	
Would illumination detract from the amenity of any residence or other form of accommodation?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as well as ambient lighting. Accordingly, it is considered that the illumination is acceptable and will not detract from residences.	Yes
Can the intensity of the illumination be adjusted, if necessary?	The proposed digital advertising panel has adjustable intensity of illumination.	Yes
Is the illumination subject to a curfew?	There is no curfew for illumination at this location.	Yes
8 Safety		
Would the proposal reduce the safety for any public road?	The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. Accordingly, the advertising is will maintain the existing safety situation.	Yes
Would the proposal reduce the safety for pedestrians or bicyclists?	The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. Accordingly, the advertising is will maintain the existing safety situation.	Yes
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. Accordingly, the advertising is will maintain the existing safety situation.	Yes

Draft Transport Corridor Outdoor Advertising and Signage Guidelines	Proposal	Compliance
2.5.8 Digital Signs – Criteria – Signs less than 20m²	The proposed digital advertising panel has an area of 2m ² on each side for a total of 4m ² . Therefore, the below controls are considered relevant.	
a) Each advertisement must be displayed in a completely static manner, without any motion, for the approved dwell time as per criterion (d) below.	The submitted SEE notes that the advertisement will be displayed in a static manner and for the approved dwell time. It is recommended a condition of consent is included that ensures compliance.	Condition
(b) Message sequencing designed to make a driver anticipate the next message is prohibited across images	Insufficient information has been submitted to determine compliance. This is considered appropriate to be	Condition

Draft Transport Corridor Outdoor Advertising and Signage Guidelines	Proposal	Compliance
presented on a single sign and across a series of signs.	resolved via a condition.	
<p>(c) The image must not be capable of being mistaken:</p> <p>(i) For a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device, or</p> <p>(ii) as text providing driving instructions to drivers.</p>	<p>Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.</p> <p>Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.</p>	<p>Condition</p> <p>Condition</p>
<p>(d) Dwell times for image display are:</p> <p>(i) 10 seconds for areas where the speed limit is below 80km/h.</p> <p>(ii) 25 seconds for areas where the speed limit is 80km/h and over.</p>	<p>Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.</p> <p>The speed limit along this section of The Grand Parade is not 80km/h and over.</p>	<p>Condition</p> <p>N/A</p>
<p>(e) The transition time between messages must be no longer than 0.1 seconds.</p>	<p>Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.</p>	<p>Condition</p>
<p>(f) Luminance levels must comply with the requirements in Table 3 below.</p>	<p>Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.</p>	<p>Condition</p>
<p>(g) The images displayed on the sign must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.</p>	<p>Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.</p>	<p>Yes</p> <p>Condition</p>
<p>(h) The amount of text and information supplied on a sign should be kept to a minimum (for example no more than a driver can read at a short glance). Text should preferably be displayed in the same font and size. Table 6 in Section 3 of these Guidelines provides further guidance.</p>	<p>Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.</p>	<p>Condition</p>
<p>(i) Any sign that is within 250 metres of a classified road and is visible from a</p>	<p>Insufficient information has been submitted to determine compliance.</p>	<p>Condition</p>

Draft Transport Corridor Outdoor Advertising and Signage Guidelines	Proposal	Compliance
school zone must be switched to a fixed display during school zone hours.	This is considered appropriate to be resolved via a condition.	
(j) Each sign proposal must be assessed on a case by case basis including replacement of an existing fixed, scrolling or tri-vision sign with a digital sign and in the instance of a sign being visible from each direction, both directions for each location must be assessed on their own merits.	The proposal to replace an existing scrolling sign with a digital sign has been assessed on its own merits and is considered acceptable.	Yes
(k) At any time, including where the speed limit in the area of the sign is changed, if detrimental effect is identified on road safety post installation of a digital sign, RMS reserves the right to re-assess the site which may result in a change to the dwell time or removal of the sign.	This is considered acceptable to be conditioned.	Condition

ROCKDALE LEP 2011	PROPOSAL	Compliance
4.3(2) Height of buildings • N/A	2.492m	N/A
4.4(2) Floor space ratio • N/A	The proposal is for advertising which is not included in GFA and therefore there is no FSR.	N/A

ROCKDALE DCP 2011	Proposal	Compliance
6.4 Advertising and Signage		
Inappropriate Sign Types		
1) The erection of the following types of signs is not permitted: a) flashing, moving or video signs b) signs other than building identification signs above the awning in a Commercial zone; c) a sign erected on or above the parapet of a building, other than a building identification sign;	The proposal is for the replacement of an existing bus shelter advertising panel with a new digital advertising panel that is not any of the listed signage types.	Yes

ROCKDALE DCP 2011	Proposal	Compliance
<p>d) a sign attached to a building and capable of movement;</p> <p>e) Projecting wall sign (attached to a wall and projecting horizontally more than 300mm).</p>		
Streetscape and Amenity		
2) Any signage proposed within an open space or infrastructure zone will be assessed on its merit, with consideration including the effect on the amenity of adjacent residential properties.	The proposed advertising panel is located within an infrastructure zone and has been assessed on its merits with consideration being had for the effect on the amenity of the adjacent residential properties. The digital panel will be oriented towards the road users and as such will not face adjacent residential properties.	Yes
3) In order to protect the amenity of residential uses adjoining commercial area, advertising in commercial zones are not permitted on walls or structures facing adjoining residential zones.	The proposed advertising is not located in a commercial zone.	N/A
4) In circumstances where the amenity of nearby residential areas will not be detrimentally affected, illumination may be permitted.	The proposed advertising panel utilised an LCD display which is considered a form of illumination. This is considered acceptable given the character of the area being a classified road where the ambient illumination of the area will be minimally affected by the panel. Furthermore, the panel will not be facing any residential properties.	Yes
5) Electrical conduits to illuminated signs are to be taken directly into the building or otherwise screened to the satisfaction of Council.	Insufficient details have been provided to determine the electrical conduit arrangement that is proposed.	Condition
6) The size, scale and number of advertisements and advertising structures respond to their context, and integrate with the streetscape rather than dominating it.	The proposed advertising is fully integrated into the design of the bus shelter, forming the side wall. It is therefore considered to respond to the context and integrate into the bus shelter and the streetscape.	Yes
7) The colours used in the design of an advertising sign or structure must complement the colour finish of the building to which it will be attached.	The proposed digital advertising panel will have a black frame which is considered a neutral colour that will complement the bus shelter.	Yes

ROCKDALE DCP 2011	Proposal	Compliance
8) Corporate colours should be limited to the advertising sign or structure, and should not be applied to the painted surface of the building.	No corporate colours are proposed to be applied to the painted bus shelter.	Yes
9) Advertising should not impact upon natural features and any trimming or lopping of significant trees should be avoided at all times. Where this is absolutely necessary details of the extent of the lopping and identification of the specific trees will be required with the application.	The proposed digital advertising panel will simply replace the existing advertising panel and will not impact any natural features.	Yes
Size		
10) The maximum advertising area for:		
a) Commercial zones is 0.5m ² of advertising area per 1m of shopfront;	The proposed advertising panel is not located in a commercial zone.	N/A
b) Enterprise Corridor and Industrial zone is 1m ² of advertising area per 3m of street frontage.	The proposed advertising panel is not located in an enterprise corridor or industrial zone.	N/A
11) Signs must be of a size and proportion which complements the scale and proportion of the existing facade, as well as surrounding buildings and signs.	The scale, proportion and form of the proposed digital advertising panel is the same as the panel it will replace. This scale, proportion and form is consistent with typical bus shelter advertising in the streetscape.	Yes
12) Health Consulting Rooms in a residential zone are permitted a single advertisement located wholly within the boundary of the subject property and with a maximum size of 0.75 m ² .	The proposal does not relate to a Health Consulting Room.	N/A
Design		
13) A signage strategy is to be submitted with a development application for any building that requires advertising or signage and must include details of the location, type, construction and total number and size of signs on the building/site.	The proposed development is to replace an existing bus shelter advertising panel with a new digital advertising panel in the same location and of the same size and dimensions. Given the similarity to the existing advertising, a signage strategy is not considered necessary and it has not been submitted with the development application.	Yes
14) Where a building or site contains multiple tenancies or uses, a coordinated approach for all signs is	The bus shelter where the advertising is proposed to be located does not contain multiple tenancies or uses.	N/A

ROCKDALE DCP 2011	Proposal	Compliance
required.		
15) All advertisements in a foreign language must contain a legible English equivalent.	The proposed development is for the advertising panel and not the future content of the advertisements.	N/A
16) Advertising structures are to form an integrated part of the facade of buildings and must reinforce architectural elements and design.	The proposed advertising panel is fully integrated into the design of the bus shelter, forming the side wall.	Yes
17) Signage must not obscure decorative forms or mouldings and must observe a reasonable separation distance from the lines of windows, doors, parapets, piers, and the like.	The proposed advertising panel is fully integrated into the design of the bus shelter, forming the side wall.	Yes
18) Materials used must be durable, fade and corrosion proof and of a high aesthetic quality.	The proposed digital advertising panel has a high aesthetic quality and the materials are considered to be appropriate for durability.	Yes
Impact on Heritage Significance		
19) Advertising proposed for heritage items must have regard to its heritage significance and must complement the item. The architectural characteristics of a building should always dominate.	The proposed advertising panel is not located on a heritage item.	N/A
20) Signs on buildings or in areas of heritage significance must not by their size, design or colour detract from the character or significant qualities of individual buildings, their immediate context or the wider streetscape context of the area.	The proposed advertising panel will be located adjacent to a heritage item (I168) known as Cook Park which is of local significance. The digital advertising panel provides an upgrade to the existing panel it will replace which is considered to be an improvement to the heritage values of the adjacent park.	Yes
21) Historic signs may have their own significance and must not be obscured or diminished by later signage.	The existing advertising panel to be replaced is a typical scrolling poster bus shelter panel which is not considered to be of any historic significance.	Yes
Safety		
22) Advertising signs and their supporting structures must not be: a) hazardous to passers-by;	The proposed advertising panel will not be a hazard to passers-by, rather it will improve safety as it replaces an	Yes

ROCKDALE DCP 2011	Proposal	Compliance
b) located so as to be hazardous for traffic safety and must not obscure a driver's or pedestrian's view of road or rail vehicles, pedestrians or features of the road, railway or footpath (e.g. junctions, bends, changes in width);	older panel with a modern digital panel. The proposal will replace an existing advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel. It is not considered to be inappropriately located.	Yes
c) so highly illuminated that they cause discomfort to, or inhibit vision of drivers or pedestrians;	It is recommended a condition is imposed that requires compliance with the Digital Advertising Criteria from the <i>Draft Transport Corridor Outdoor Advertising and Signage Guidelines</i> which contains provisions relating to illumination.	Condition
d) mistaken as an official traffic sign and must not distract a drivers attention or be confused with instructions given by traffic signals.	Given the prevalence of bus shelter advertising panels and that the panel is fully integrated into the bus shelter, it is considered unlikely that the advertising panel will be mistaken as an official traffic sign.	Yes

Summary of Issues/Non compliances:

Resolved via condition

- SEPP 64 *Draft Transport Corridor Outdoor Advertising and Signage Guidelines* – The draft guidelines contain specific digital advertising criteria. These relate to technical details of illuminance levels, dwell times of advertisements etc. that are unreasonable to request at Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria from the draft guidelines.
- SEPP 64 Expiration of Consent – Clause 14 requires that consents granted under the SEPP expire 15 years after the date the consent becomes effective and operates. Accordingly, it is recommended that a condition is imposed that expires the consent after 15 years.
- SEPP 64 Name/logo location and size – Clause 20 contains requirements for the location and size of the name or logo of the person who owns or leases the advertisement. Insufficient details have been provided to determine compliance and as such it is recommended a condition is imposed requiring compliance.
- RDCP2011 Electrical conduits - Control 5 of Part 6.4 requires that electrical conduits of illuminated signs be taken directly into the building or otherwise

screened to the satisfaction of Council. Insufficient details have been provided of the proposed electrical arrangement for the digital advertising panel to determine compliance and as such it is recommended a condition is imposed requiring compliance.

Certification

I certify that all of the above issues have been accurately and professionally examined by me.

Name James Arnold.

Signature

A handwritten signature in black ink, appearing to read 'James Arnold', written in a cursive style.

Date 23 January 2017

7 Drawings

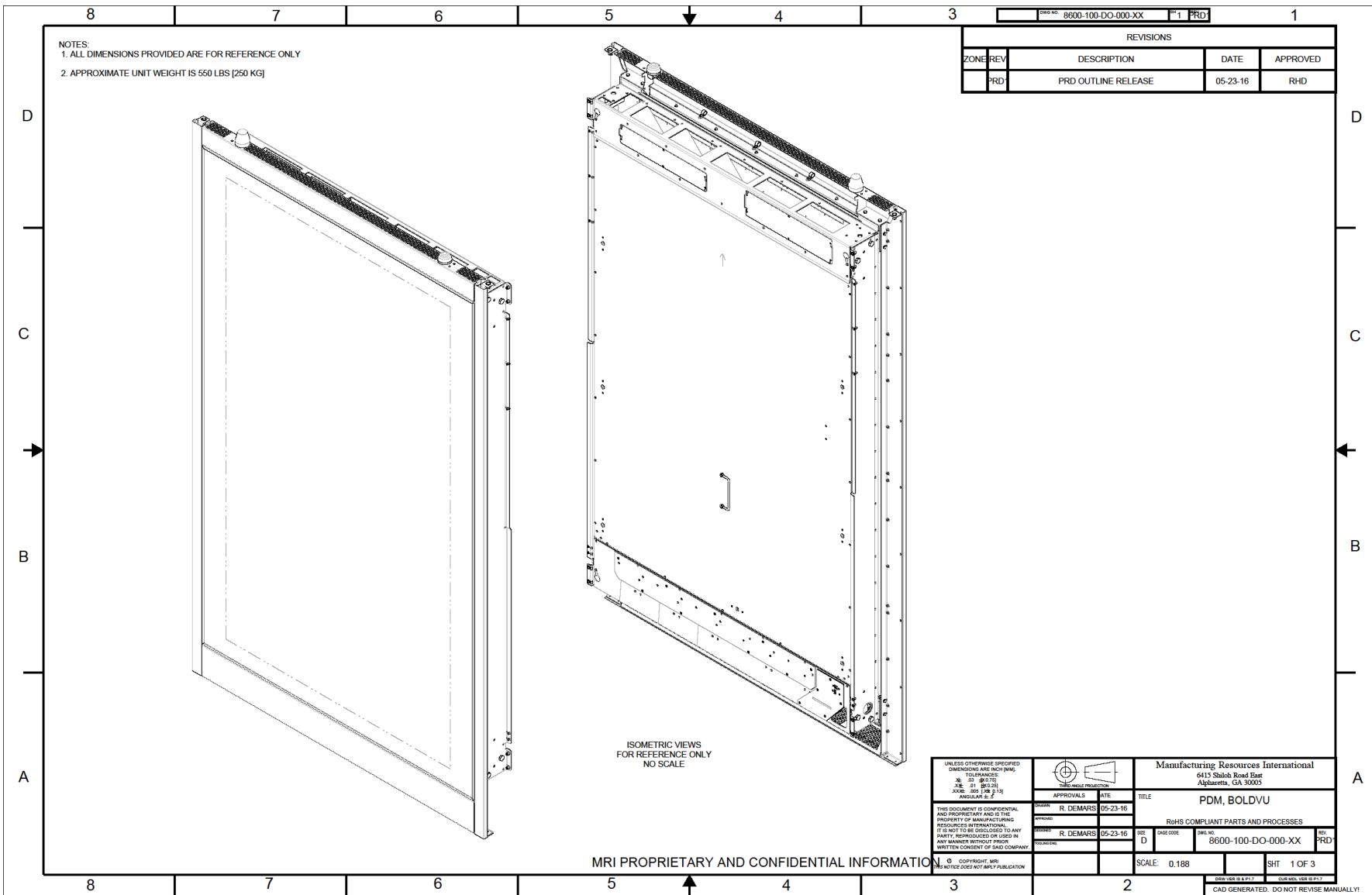
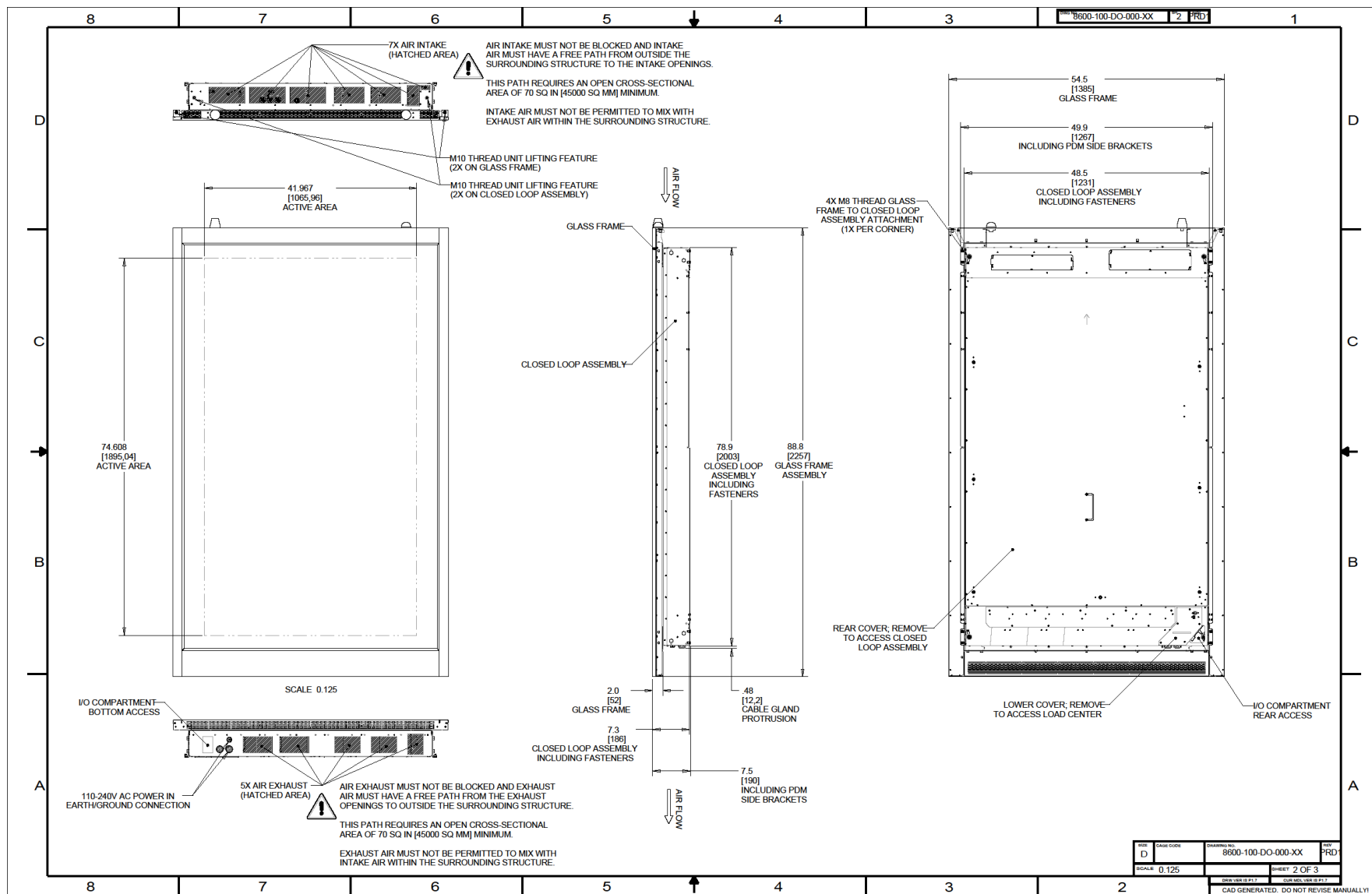


Figure 1. Outline drawing (1 of 3)



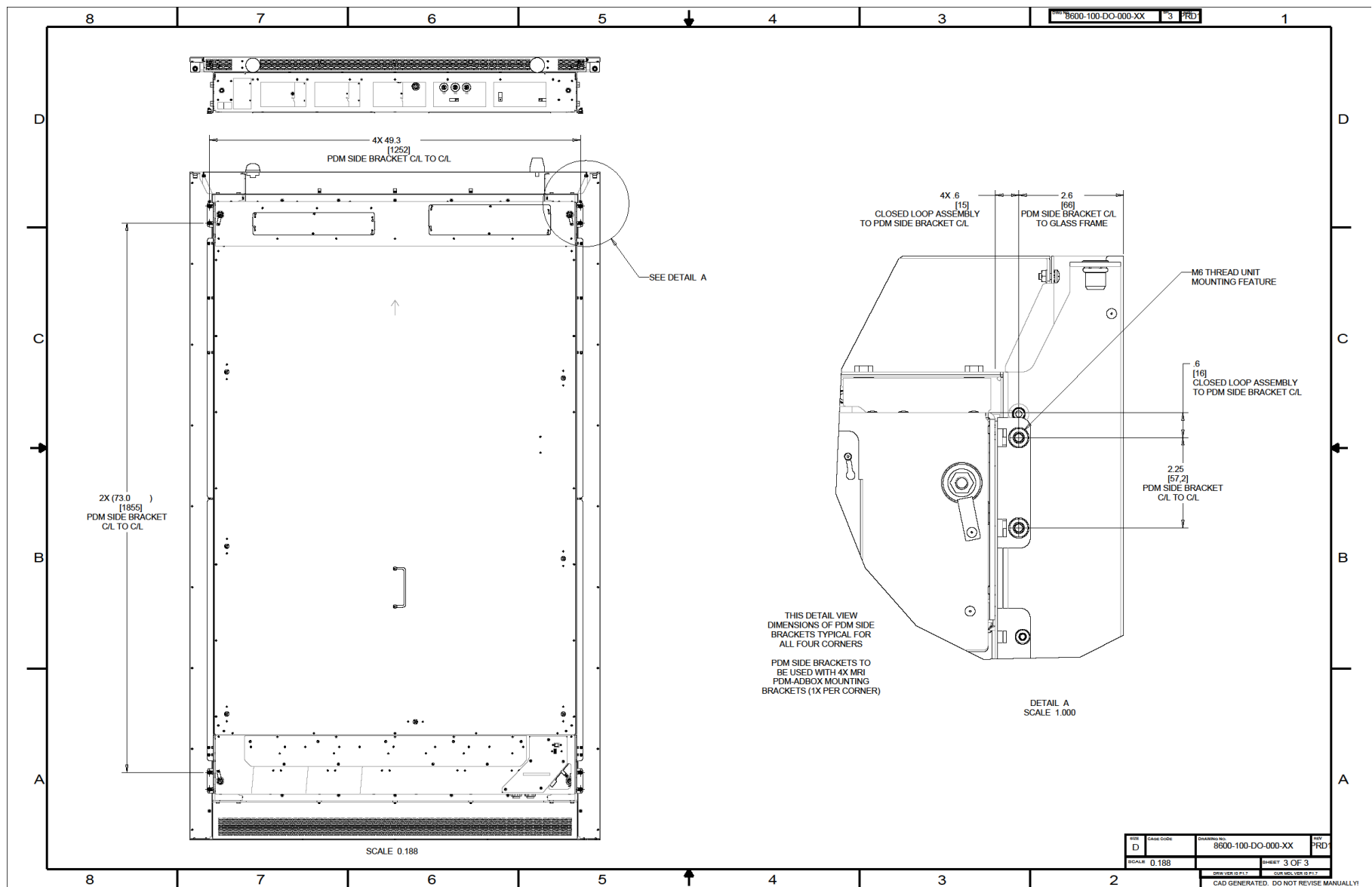


Figure 3. Outline drawing (3 of 3)

Council Meeting

8/03/2017

Item No	9.12
Property	ROAD 1 Princes Highway, Rockdale (Opposite 625 Princes Highway)
Proposal	Replacement of existing bus shelter advertising panel with new digital advertising panel
Cost of Development	\$5000
Report by	Creative Planning Solutions Pty Ltd
Application No	DA-2017/124

Council Resolution

Minute 2017/036

Resolved by the Administrator:

That Development Application No. 2017/124 which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 194 The Grand Parade, Ramsgate Beach (Opposite 209 The Grand Parade) be APPROVED pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the attached conditions of consent.

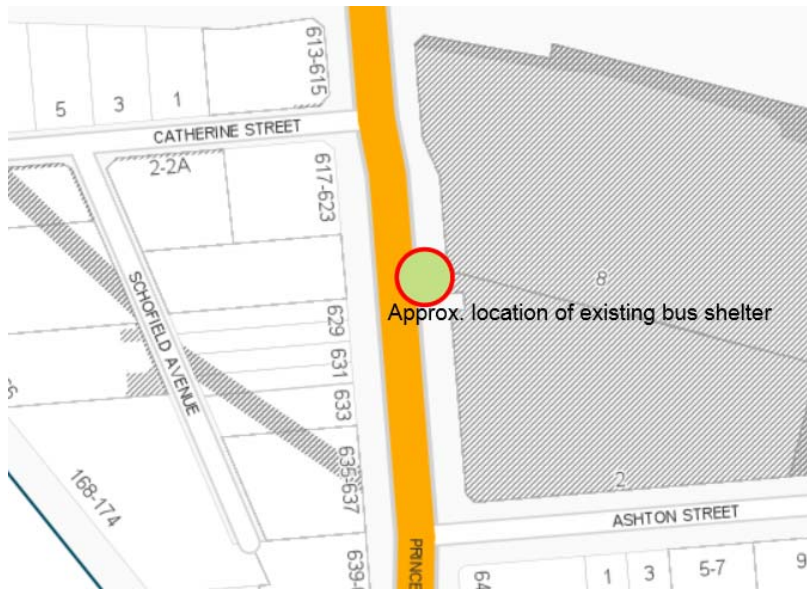
Officer Recommendation

That Development Application No. 2017/124 which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 194 The Grand Parade, Ramsgate Beach (Opposite 209 The Grand Parade) be APPROVED pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the attached conditions of consent.

Attachments

- 1 Planning Assessment Report
 - 2 Draft Notice of Determination
 - 3 Compliance Checklist
 - 4 Bus Shelter Drawing
 - 5 Advertising Panel Drawing
-

Location Plan



BAYSIDE COUNCIL

COUNCIL REPORT

1. APPLICATION DETAILS

Property:	ROAD 1 Princes Highway, Rockdale (Opposite 625 Princes Highway) NSW 2216
Proposal:	Replacement of existing bus shelter advertising panel with new digital advertising panel.
Date Lodged:	11 October 2016
File Number:	DA-2017/124
Owner:	Bayside Council
Author:	James Arnold – Creative Planning Solutions Pty Limited
Coordinator:	Marta Gonzalez-Valdes – Coordinator Major Assessment Team

2. REPORT SUMMARY

This report considers a Development Application (DA) which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 1 Princes Highway, Rockdale (Opposite 625 Princes Highway).

No significant issues were identified in the assessment and some minor issues have been resolved via conditions of consent which are discussed as follows:

- SEPP 64 *Draft Transport Corridor Outdoor Advertising and Signage Guidelines* – The draft guidelines contain specific criteria for digital advertising. These criteria relate to technical details of illuminance levels, dwell times of advertisements etc. that are unreasonable to request at the Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria from the draft guidelines.
- SEPP 64 Expiration of Consent – Clause 14 requires that consents granted under the SEPP expire 15 years after the date the consent becomes effective and operates. Accordingly, it is recommended that a condition is imposed that expires the consent after 15 years.
- SEPP 64 Name/logo location and size – Clause 20 contains requirements for the location and size of the name or logo of the person who owns or leases the advertisement. Insufficient details have been provided to determine compliance and as such it is recommended a condition is imposed requiring compliance.

- RDGP2011 Electrical conduits – Part 6.4 Control 5 requires that electrical conduits of illuminated signs be taken directly into the building or otherwise screened to the satisfaction of Council. Insufficient details have been provided of the proposed electrical arrangement for the digital advertising panel to determine compliance and as such it is recommended a condition is imposed requiring compliance.

Having regard to the matters for consideration in Section 79C(1) of the Environmental Planning and Assessment Act 1979 (the Act), the following has been determined:

- When assessed against the relevant environmental planning instruments pertaining to the proposed development, including the State Environmental Planning Policy No. 64 – Advertising and Signage and the Rockdale Local Environmental Plan 2011, the proposal satisfactorily complies with the applicable objectives and provisions;
- When assessed against the relevant provisions of the Rockdale Development Control Plan 2011, the proposal complies with the relevant development controls. Where non-compliances with development controls have been identified, these are considered to be satisfactorily justifiable;
- The likely impacts of the proposed development have been considered and determined to be minimal and be satisfactory;
- The site is considered suitable for the proposed development; and,
- Having regard for the level of compliance with the applicable planning controls, the proposed development is considered to be in the public interest.

3. RECOMMENDATION

That Development Application No. 2017/124 which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 1 Princes Highway, Rockdale (Opposite 625 Princes Highway) be APPROVED pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the attached conditions of consent.

4. BACKGROUND

The subject DA was lodged with Council on 11 October 2016. The DA was notified to the public from 21 October 2016 to 8 November 2016. No submissions were received.

A review of the subject site's development history using Council's online Development Application search returned with no results. This suggests that the subject site has not been subject to any works requiring Council approval since 1 July 2004, since the ePlanning portal applies to applications submitted after 1 July 2004.

5. PROPOSAL

Council is in receipt of Development Application DA-2017/124 at 1 Princes Highway, Rockdale (Opposite 625 Princes Highway) which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel.

Details of the proposed development are as follows:

- Remove the existing static-scrolling poster advertising panel,
- Install a LED digital advertising panel where the existing panel is located. The new panel has the following specifications:
 - Two sided,
 - 1895mm x 1065mm dimensions,
 - 2m² each side of panel,
 - Maximum height of 2.492m above the footpath level.

The submitted Statement of Environmental Effects provides the following additional details about the proposed advertising panel:

The advertisements will be on a 10 second dwell time with instantaneous transitioning between advertisements. No animation or dynamic digital display is proposed... The panel has been designed to adopt the national guidelines for digital display illumination, brightness, and transition timeframes, taking into account day/night time transitions, as well as ambient lighting.

6. EXISTING AND SURROUNDING USES

The subject site is the road reservation of the Princes Highway. The address of the subject site is 1 Princes Highway, Rockdale, and the bus shelter where the proposed advertising is to be located is opposite 625 Princes Highway on the eastern side of the road between the intersections with Rockdale Plaza Drive and Ashton Street.

The Princes Highway is a classified road that runs north-south from the suburb of St Peters in the inner city of Sydney, south down the New South Wales coast to Melbourne and then onto Adelaide. The Princes Highway within the Sydney Metropolitan Area is typically a four to six lane road with travel lanes in both directions and parking lanes along portions of the road. Adjacent to the bus shelter are two southerly travel lanes and a dedicated bus stopping lane on the eastern side of the road and three northerly travel lanes and a parking lane on the western side of the road.

The bus shelter which the proposed advertising panel will be installed on, is a typical Sydney bus shelter with one open side to the street. The bus shelter is constructed with metal posts with a glass back, an advertising panel on the side, and a flat metal roof. The bus shelter sits on the concrete footpath. The existing advertising panel is two sided and contains static-scrolling poster advertisements.

In the immediate surrounds of the bus shelter are landscaped areas including open lawn and mature trees. The locality is characterised by a mixed built form including two (2) to twelve (12) storey developments including residential apartments and commercial uses at the ground floor street frontages including a range of retail and business premises.

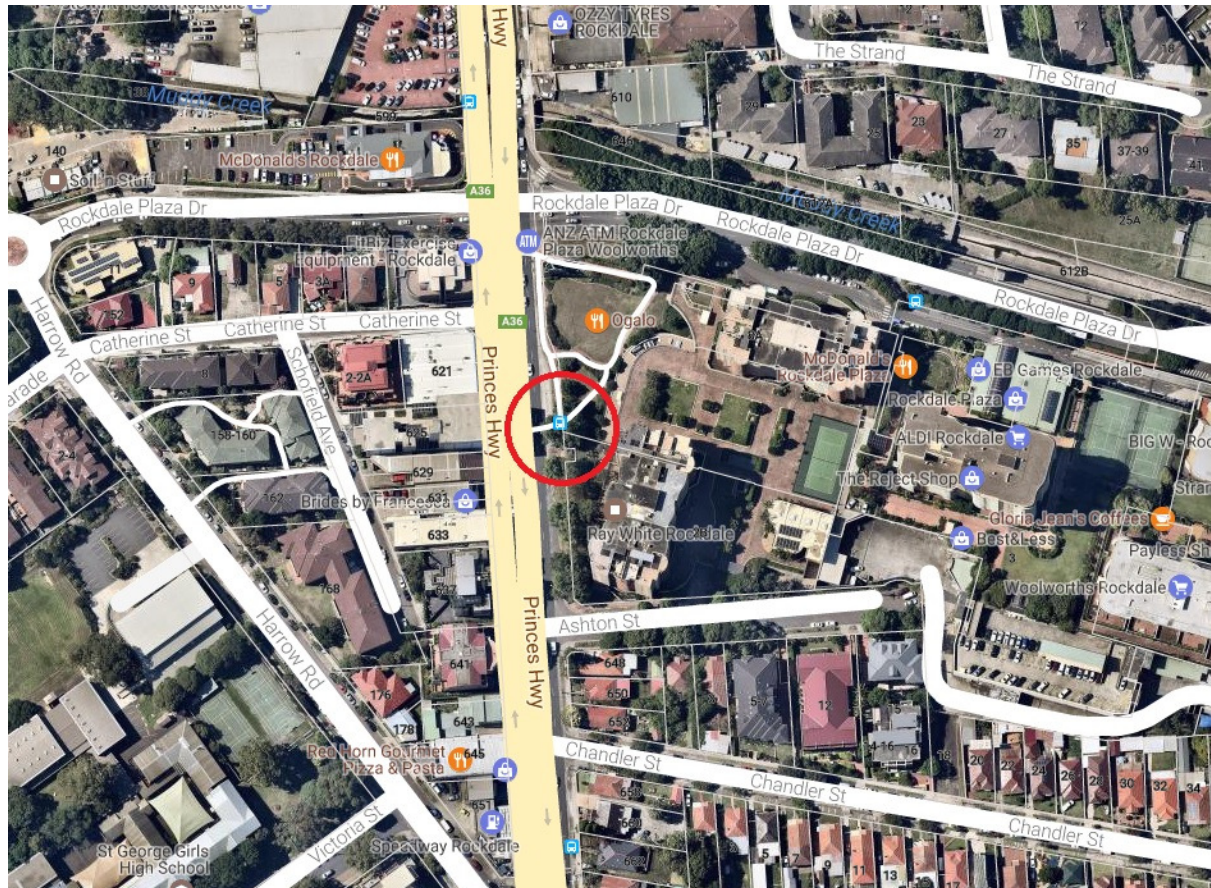


Figure 1: Location of bus shelter where the digital advertising panel is proposed circled in red
(Source: nearmap.com.au)



Figure 2: Bus Shelter and existing advertising panel to be replaced looking south
(Source: CPS, 2016)

7. REFERRALS

7.1. EXTERNAL

The Development Application was referred to the following external authorities:

- Roads and Maritime Services (RMS) – The development application was referred to the RMS on 20 October 2016 and a response was received on 17 November 2016. The response stated that the development application was not required to be referred to the RMS and as such no comment was provided.
- State Transit Authority (STA) – The development application was referred to STA and a response was received on 11 November 2016. The response stated that no objection was raised to the works however STA requested notification when the works will be carried out and if the requirement to close the bus stop during the construction is required. These requests are recommended to be imposed as conditions of consent.

7.2. INTERNAL

The Development Application was not referred to any internal departments:

8. PLANNING CONSIDERATIONS - SECTION 79C OF THE EP&A ACT 1979

The following is an assessment of the proposed development under the provisions of Section 79C(1) of the *Environmental and Planning Assessment Act 1979* (the Act).

8.1 PROVISIONS OF ENVIRONMENTAL PLANNING INSTRUMENTS (S.79C(1)(a)(i))

8.1.1 State Environmental Planning Policy No. 64 – Advertising and Signage

Clause 6 – Signage to which this policy applies

SEPP 64 is considered to apply to the proposed development which is discussed below.

The proposed development meets the definition of ‘signage’ under the provisions of SEPP 64. This is because the proposed sign constitutes an ‘advertisements’ to which Part 3 of SEPP 64 applies.

In accordance with Clause 9, the proposed development is considered to be an ‘advertisement’ (which is a type of signage) and an ‘advertising structure’ as it is not a business identification sign, building identification sign, signage that is exempt development, or signage on vehicles. The relevant definitions from the SEPP are provided below.

advertisement means signage to which Part 3 applies and includes any advertising structure for the advertisement.

Note. Part 3 applies to all signage other than business identification signs, building identification signs, signage that is exempt development, or signage on vehicles

advertising structure means a structure or vessel that is principally designed for, or that is used for, the display of an advertisement.

Clause 6 of SEPP 64 outlines the following with regard to signage to which SEPP 64 applies:

(1) *This Policy applies to all signage:*

- a) *that, under another environmental planning instrument that applies to the signage, can be displayed with or without development consent, and*
- b) *is visible from any public place or public reserve,*

except as provided by this Policy.

*Note. **Public place** and **public reserve** are defined in section 4 (1) of the Act to have the same meanings as in the Local Government Act 1993.*

(2) *This Policy does not apply to signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it, or that is exempt development under this Policy.*

In accordance with Clause 6, SEPP 64 applies to the proposed development as it can be displayed with development consent under the RLEP2011 (refer to permissibility discussion under RLEP section of this report) and will be visible from a public place or public reserve.

It is noted that the proposal does not satisfy Clause 6(2) as the proposal is not considered to meet the exempt development provisions under other environmental planning instruments. The proposal is not identified as exempt development under RLEP2011, nor is it identified under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Furthermore, the proposal would not constitute exempt development under the provisions of *State Environmental Planning Policy (Infrastructure) 2007*.

Given the above, SEPP 64 is considered to apply to the proposed development and the following are the relevant provisions from the SEPP that have been taken into consideration:

Clause 3 – Aims, objectives etc

The proposed advertising panel is considered to be consistent with the aims of the SEPP for the following reasons:

- The proposal will replace an existing scrolling poster bus shelter advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel providing a modern upgrade which is compatible with the desired amenity and visual character of the Rockdale area.
- The advertising panel will be located on the side of a bus shelter which provides for an effective and efficient means of communication and given it is adjacent to a classified road it is considered to be a suitable location.
- The proposed modern digital advertising panel is considered to be of high quality design and finish.

Clause 10 – Prohibited advertisements

As discussed above, the proposed development is considered to be an ‘advertisement’ in accordance with the definitions contained within Clause 4 and the provisions of Clause 9. Clause 10 stipulates that the display of advertisements is prohibited in the following zones: environmentally sensitive area, heritage area, natural or other conservation area, open space, waterway, residential, scenic protection area, national park, and nature reserve.

The proposed bus stop advertisement is located on land zone SP2 – Infrastructure which is not a listed zone. Accordingly, the development is not prohibited under this clause.

Clause 12 – Consent Authority

The proposed advertisement is to be located in the Bayside Local Government Area and Cl. 12(c), (d), or (e) do not apply. Therefore, Bayside Council is the consent authority.

Clause 13 – Matters for consideration

The matters for consideration stipulated in Clause 13(1) are considered to apply to the subject proposal as Council is the consent authority and Clause 18 or 24 do not apply. Therefore, the matters for consideration for the subject Development Application are as follows:

a) is consistent with the objectives of this Policy, and

As discussed above, the proposal is considered to be consistent with the objectives of the SEPP.

b) assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and

The proposal has been assessed in accordance with the assessment criteria in Schedule 1 and is considered acceptable in terms of its impacts.

c) satisfies any other relevant requirements of this Policy

The proposal satisfies the other relevant requirements of the SEPP. It is noted that the, although not a matter for consideration for the proposal, the *Draft Transport Corridor Outdoor Advertising and Signage Guidelines* have been considered as it provides specific requirements for digital advertising. These criteria relate to technical details of illuminance levels, dwell times of advertisements etc. that are unreasonable to request at the Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria from the draft guidelines.

Clause 14 – Duration of consents

In accordance with this clause, any consent granted for this Development Application must expire 15 years after the date on which the consent becomes effective and operates.

It is noted that the Bayside Council had not adopted any policy to reduce the 15 year expiration time prior to the commencement of the SEPP and the area is not considered to be undergoing change in accordance with an EPI to change the nature of the area. Accordingly, the 15 year expiration clause applies and it is recommended a condition of consent to this effect is imposed.

Clause 20 – Location of certain names and logos

Insufficient information has been provided to determine the location and size of the name/logo of the owner/leaser of the proposed advertisement. It is recommended a condition of consent is included to ensure compliance with this clause.

8.1.2 Rockdale Local Environmental Plan 2011

The following are relevant matters from the LEP that have been taken into consideration.

Clause 2.1 – Land Use Zones

Princes Highway road corridor is zoned SP2 – Infrastructure. Within the SP2 zone, development permitted with consent includes:

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.

The purpose shown on the Land Zoning Map where the advertising is proposed is ‘Classified Road’. Accordingly, the road and any development that is ordinarily incidental or ancillary to development for the purpose of a Classified Road is also permitted with consent. All other forms of development are identified as being prohibited within the SP2 zone, except that for the purposes of ‘roads’ which is permissible without consent.

The proposed development is considered to be for both an ‘advertisement’ and the associated ‘advertising structure’ on which the advertisement is to be displayed. The RLEP refers to the *Environmental Planning and Assessment Act 1979* for the relevant definitions which are as follows.

advertisement means a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

advertising structure means a structure used or to be used principally for the display of an advertisement.

Given the above, for the proposed advertisement/advertising structure to be permissible in the zone, it must be considered as *ordinarily incidental or ancillary* to a Classified Road.

It is considered that the provision for *ordinarily incidental* to development for a Classified Road would reasonably include a bus shelter advertising panel in the particular form proposed. The reason for this is the high prevalence of bus shelter advertisements in the particular form and scale that is proposed. That is, the advertising panel forms the side of the bus shelter and is fully integrated into and fundamental to the structure and functioning of the bus shelter as would be ordinarily found on many, if not most, bus shelters on Classified Roads across NSW. The fundamental aspect of what makes the proposed advertising panel *ordinarily incidental*, is that it takes the form of a bus shelter advertising panel that would be ordinarily encountered within a bus shelter on a Classified Road. Therefore, to provide further clarity, this argument would not apply to a bus shelter advertising panel which is not ordinarily encountered, such as if it protruded above the roof of the bus shelter.

Accordingly, it is considered the proposed advertising panel is permitted with consent in the zone.

Clause 4.3 – Height of Buildings

There is no maximum height of buildings specified for the subject site.

It is noted that the maximum height of the proposed advertising panel is 2.492m above the footpath level below.

Clause 4.4 – Floor Space Ratio

There is no maximum floor space ratio specified for the subject site.

It is noted that the proposed advertising panel does not constitute gross floor area and therefore does not have a floor space ratio.

Clause 5.9 – Preservation of trees or vegetation

Clause 5.9 of LEP2011 prescribes that a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by development consent, or a permit granted by the Council.

The proposed digital advertising panel will simply replace the existing advertising panel and will not impact any trees or vegetation.

Accordingly, the proposed development is considered to satisfy Clause 5.9.

Clause 5.10 Heritage Conservation

The proposed advertising panel is not located on a heritage item, is not within the vicinity of a heritage item, and is not within a heritage conservation area.

Accordingly, there are no heritage concerns with the proposed development pursuant to Clause 5.10.

Clause 6.1 – Acid Sulfate Soils

The subject site has been identified as being affected by Acid Sulfate Soils (ASS) – Class 5. The proposal does not involve any significant disturbance of the soils that would trigger a requirement for an Acid Sulfate Soils Management Plan. Accordingly, the proposal satisfies Clause 6.1.

8.2 PROVISIONS OF ANY PROPOSED INSTRUMENT THAT IS OR HAS BEEN THE SUBJECT OF PUBLIC CONSULTATION UNDER THIS ACT AND THAT HAS BEEN NOTIFIED TO THE CONSENT AUTHORITY (S.79C(1)(a)(iii))

No draft environmental planning instruments have been identified that are relevant to the proposed development.

8.3 PROVISIONS OF DEVELOPMENT CONTROL PLANS (S.79C(1)(a)(iii))

8.3.1 Rockdale Development Control Plan 2011

The proposed development has been assessed against the *Rockdale Development Control Plan 2011* (RDCP 2011). For full reference of the RDCP 2011 assessment please refer to the detailed compliance check document attached to this report. A summary of compliance for the proposed development is provided below:

Part 6.4 – Advertising and Signage

Part 6.4 of the DCP relates to advertising and signage and therefore applies to the proposed development. It has been determined that the proposal complies with the relevant objectives and controls within this part, with the exception of one control which can be conditioned to comply as discussed below.

Part 6.4 Control 5 requires that electrical conduits of illuminated signs be taken directly into the building or otherwise screened to the satisfaction of Council. Insufficient details have been provided of the proposed electrical arrangement for the digital advertising panel to determine compliance and as such it is recommended a condition is imposed requiring details be submitted and compliance achieved prior to Construction Certificate.

8.4 PROVISIONS OF REGULATIONS (S.79C(1)(a)(iv))

The provisions of the regulations have been considered in the assessment of this development proposal where relevant.

8.5 IMPACT OF DEVELOPMENT (S.79C(1)(b))

8.5.1 Road safety

The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. The *Draft Transport Corridor Outdoor Advertising and Signage Guidelines*, have been considered in the assessment as they contain specific provisions relating to Digital Advertising. These criteria relate to technical details of illuminance levels, dwell times of advertisements etc, that are related to achieving a satisfactory level of road safety. Most of the technical details required to determine compliance have not been provided and are considered unreasonable to request at the Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria which will ensure a level of road safety is achieved in accordance with the draft guidelines.

8.5.2 Character / Streetscape

The proposal will replace an existing scrolling poster bus shelter advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel. This is considered to provide a modern upgrade for the advertisement which is compatible with the desired amenity and visual character of the Rockdale area.

8.6 SUITABILITY OF THE SITE (S.79C(1)(c))

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Conditions of consent, including compliance with soil and erosion measures, and stormwater management are proposed to further minimise any impacts on the subject land or adjoining land as a result of the proposal.

The subject site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered and given the nature of the development and the long-standing use of the land for the purpose of a road, onsite investigation is not warranted.

There are no other major physical constraints or exceptional circumstances that would hinder the suitability of the site for the proposed development have been identified.

Accordingly, the site is considered suitable for the development.

8.7 SUBMISSIONS (S.79C(1)(d))

The DA was notified to the public from 21 October 2016 to 8 November 2016. No submissions were received.

8.8 PUBLIC INTEREST (S.79C(1)(e))

The proposed development is considered to be in the public interest.

9. CONCLUSION

This application has been assessed in accordance with the matters for consideration of Section 79C of the Act. The Development Application seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 1 Princes Highway, Rockdale (Opposite 625 Princes Highway).

The proposal has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979*. No significant issues have been identified and some minor issues have been resolved via conditions. The proposal is permissible in the SP2 – Infrastructure zone, the likely impacts are considered to be minimal and acceptable, and the development is considered to be suitable for the site and surrounding context.

Given the above, it is recommended that the application be approved pursuant to Section 80 of the Act and subject to the attached conditions of consent.

Our Ref: DA-2017/124
Contact: Marta M Gonzalez-Valdes 9562 1666

444-446 Princes Highway Rockdale NSW 2216
PO Box 21 Rockdale NSW 2216
T 1300 581 299 F 9562 1777
rcc@rockdale.nsw.gov.au
www.bayside.nsw.gov.au

Tract Consultants
8/80 Mount St
NORTH SYDNEY NSW 2060

NOTICE OF DETERMINATION

Issued in accordance with section 81(1a) of the *Environmental Planning and Assessment Act, 1979*

Application Number: DA-2017/124
Property: 1 Princes Highway, ROCKDALE NSW 2216
ROAD 1H
ROAD 1I
ROAD 1J
Proposal: Replacement of existing bus shelter advertising panel
with new digital advertising panel

Authority:

Determination:

Date of determination:

Date consent commences:

Date consent lapses:

General Conditions

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. The term of this consent is limited to a period of five (5) years from the date of the original approval. The consent will lapse if the development does not commence within this time.
2. This consent expires 15 years after the date this consent becomes effective and operates. A new development application shall be submitted for any continuance of the use.
3. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Plan/Dwg No.	Drawn by	Dated	Received by Council
PDM, BOLDVU Outline Drawing Sheet 1-3	Manufacturing Resources International	23 May 2016	11 October 2016
Mero Ad (Mains) Digital (R-Box) - General Assembly Drawings Sheet 1-4	Adshell	24 February 2016	11 October 2016
Site Plan – Opposite 625 Princes Highway, Rockdale	Tract Consultants	August 2016	11 October 2016

4. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

Development specific conditions

The following conditions are specific to the Development Application proposal.

5. In accordance with the Draft Transport Corridor Outdoor Advertising and Signage Guidelines (prepared by NSW Department of Planning and Environment dated December 2015), the following must be adhered to:
 - a) Each advertisement must be displayed in a completely static manner, without any motion, for the approved dwell time as per criterion (d) below.
 - b) Message sequencing designed to make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.
 - c) The image must not be capable of being mistaken:
 - i) For a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device, or
 - ii) as text providing driving instructions to drivers.
 - d) Dwell times for image display are to be at least 10 seconds for areas where the speed limit is below 80km/h.
 - e) The transition time between messages must be no longer than 0.1 seconds.
 - f) Luminance levels must comply with Australian Standard AS4282 Control of the Obtrusive Effects of Outdoor Lightings. Table 3 of the Guidelines provides further guidance.
 - g) The images displayed on the sign must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.
 - h) The amount of text and information supplied on a sign should be kept to a minimum (for example no more than a driver can read at a short glance). Text should preferably be displayed in the same font and size. Table 6 in Section 3 of the Guidelines provides further guidance.
 - i) Any sign that is within 250 metres of a classified road and is visible from a school zone must be switched to a fixed display during school zone hours.
 - j) At any time, including where the speed limit in the area of the sign is changed, if detrimental effect is identified on road safety post installation of a digital sign, RMS reserves the right to re-assess the site which may result in a change to the dwell time or removal of the sign.

6. The following fees shall be paid to Council prior to installation of the sign. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
 - i. A Footpath Reserve Restoration Deposit of \$1,628.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
 - ii. An environmental enforcement fee of 0.25% of the cost of the works.
 - iii. A Soil and Water Management Sign of \$17.50.
7. Location of certain names and logos

The name or logo of the person who owns or leases an advertisement or advertising structure may appear only within the advertising display area. If the advertising display area has no border or surrounds, any such name or logo is to be located :

- i) within the advertisement, or
- ii) within a strip below the advertisement that extends for the full width of the advertisement.

The area of any such name or logo must not be greater than 0.25 square metres.

Electrical Conduits

Electrical conduits are to be taken directly into the bus shelter or otherwise screened to the satisfaction of Council.

Prior to commencement of works

The following conditions must be completed prior to the commencement of works.

8. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
9. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
 - i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - ii) building involves the enclosure of a public place,Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.
Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath

must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:

- (i) the vertical height above footpath level of the structure being demolished is less than 4m; or
- (ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must -

- (i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
- (ii) have a clear height above the footpath of not less than 2.1m;
- (iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and
- (iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

10. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
 - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
 - ii) where the erection of gates or fences has restricted access to metering equipment.

During demolition / excavation / construction

The following conditions must be complied with during demolition, excavation and or construction.

11. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
12. Adequate provisions are to be made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
 - Sediment control measures
 - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
 - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
13. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense.

Prior to issue of occupation certificate or commencement of use

The following conditions must be complied with prior to issue of the Occupation Certificate or Commencement of Use.

14. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
15. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
16. Where the installation of electricity conduits is required in the footway, the builder shall install the conduits within the footway across the frontage/s of the development site, to Ausgrid's specifications. Ausgrid will supply the conduits at no charge. A Road Opening Permit must be obtained from Council prior to the installation of the conduits. The builder is responsible for compaction of the trench and restoration of the footway in accordance with Council direction. A Compliance Certificate from Ausgrid shall be obtained prior to the issue of the Occupation Certificate.

Development consent advice

- a. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
 - choosing quiet equipment
 - choosing alternatives to noisy activities
 - relocating noise sources away from affected neighbours
 - educating staff and contractors about quiet work practices
 - informing neighbours of potentially noise activities in advance
 - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- b. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

Additional Information

- To confirm the date upon which this consent becomes effective, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979*. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- To confirm the likelihood of consent lapsing, refer to Section 95 of the Act. Generally consent lapses if the development is not commenced within five (5) years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- Section 82A allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.

- Under Section 97 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.
-

Should you have any further queries please contact Marta M Gonzalez-Valdes on 9562 1666

Luis Melim
Manager - Development Services

PRELIMINARY ASSESSMENT

DA No:	DA-2017/124
Date Plans Rec'd	11 October 2016
Address:	1 Princes Highway, Rockdale (Opposite 625 Princes Highway)
Proposal:	Replacement of existing bus shelter advertising panel with new digital advertising panel.
Constraints Identified:	Nil
Zoning:	SP2 – Infrastructure

SEPP 64 – Advertising and Signage	Proposal	Compliance
<p>Cl. 3 Aims, objectives etc.</p> <p>(1) This Policy aims:</p> <p>(a) to ensure that signage (including advertising):</p> <p>(i) is compatible with the desired amenity and visual character of an area, and</p> <p>(ii) provides effective communication in suitable locations, and</p> <p>(iii) is of high quality design and finish, and</p> <p>(b) to regulate signage (but not content) under Part 4 of the Act, and</p> <p>(c) to provide time-limited consents for the display of certain advertisements, and</p>	<p>The proposal will simply replace an existing scrolling poster bus shelter advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel. This is considered to provide a modern upgrade for the advertisement which is compatible with the desired amenity and visual character of the Rockdale area.</p> <p>The proposed digital advertising panel is located on the side of a bus shelter which provides for an effective and efficient means of communication and given it is adjacent to a classified road it is considered to be a suitable location.</p> <p>The proposed modern digital advertising panel is considered to be of high quality design and finish.</p> <p>Noted. The proposal is for the advertising panel itself and not for the future content of advertising on the panel.</p> <p>Noted.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

SEPP 64 – Advertising and Signage	Proposal	Compliance
<p>(d) to regulate the display of advertisements in transport corridors, and</p> <p>(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.</p>	<p>Noted.</p> <p>The proposal does not trigger requirements for public benefits.</p>	<p>Yes</p> <p>N/A</p>
<p>Cl. 9 Advertisements to which this Part applies</p> <p>This Part applies to all signage to which this Policy applies, other than the following:</p> <p>(a) business identification signs,</p> <p>(b) building identification signs,</p> <p>(c) signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it,</p> <p>(d) signage on vehicles.</p>	<p>The proposed development meets the definition of 'signage' under the provisions of SEPP 64. This is because the proposed sign constitutes 'advertisements' to which Part 3 of SEPP 64 applies.</p> <p>In accordance with Clause 9, the proposed development is considered to be an 'advertisement' (which is a type of signage) and an 'advertising structure' as it is not a business identification sign, building identification sign, signage that is exempt development, or signage on vehicles.</p> <p>Therefore, Part 3 of SEPP 64 applies.</p>	<p>Yes</p>
<p>Cl. 10 Prohibited advertisements</p> <p>Despite the provisions of any other environmental planning instrument, the display of an advertisement is prohibited on land that, under an environmental planning instrument, is within any of the following zones or descriptions:</p> <p>environmentally sensitive area heritage area (excluding railway stations) natural or other conservation area open space waterway residential (but not including a mixed residential and business zone, or similar zones) scenic protection area national park nature reserve</p>	<p>The proposed bus stop advertisement is located on land zone SP2 – Infrastructure which is not a listed zone. Accordingly, the development is not prohibited under this clause.</p>	<p>Yes</p>
<p>Cl. 12 Consent Authority</p> <p>For the purposes of this Policy, the consent authority is:</p> <p>(a) the council of a local government area in the case of an advertisement</p>	<p>The proposed advertisement is to be located in the Bayside Local Government Area and Cl. 12(c), (d), or (e) do not apply. Therefore, Bayside Council is the consent</p>	<p>N/A</p>

SEPP 64 – Advertising and Signage	Proposal	Compliance
<p>displayed in the local government area (unless paragraph (c), (d) or (e) applies), or</p> <p>(b) the Maritime Authority of NSW in the case of an advertisement displayed on a vessel, or</p> <p>(c) the Minister for Planning in the case of an advertisement displayed by or on behalf of RailCorp on a railway corridor, or</p> <p>(d) the Minister for Planning in the case of an advertisement displayed by or on behalf of the RTA on:</p> <p>(i) a road that is a freeway or tollway (under the Roads Act 1993) or associated road use land that is adjacent to such a road, or</p> <p>(ii) a bridge constructed by or on behalf of the RTA on any road corridor, or</p> <p>(iii) land that is owned, occupied or managed by the RTA, or</p> <p>(e) the Minister for Planning in the case of an advertisement displayed on transport corridor land comprising a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M4 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel, or associated road use land that is adjacent to such a road.</p>	<p>authority.</p>	
<p>Cl. 13 Matters for consideration</p> <p>(1) A consent authority (other than in a case to which subclause (2) applies) must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:</p> <p>(a) is consistent with the objectives of this Policy, and</p> <p>(b) assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and</p>	<p>As detailed above, the proposal is consistent with the objectives of this policy.</p> <p>As detailed below, the proposal has been assessed in accordance with the assessment criteria in Schedule 1 and the proposal is acceptable in terms of its impacts.</p>	<p>Yes</p> <p>Yes</p>

SEPP 64 – Advertising and Signage	Proposal	Compliance
(c) satisfies any other relevant requirements of this Policy	As detailed in this table, the proposal satisfies the relevant requirements of this policy. It is noted that the <i>Draft transport corridor outdoor advertising and signage guidelines</i> have been considered although it is not a matter for consideration for the subject proposal, and the proposal is considered to satisfy the relevant provisions of that document.	Yes
<p>Cl. 14 Duration of consents</p> <p>Consent granted under this part ceases 15 years after date consent becomes effective, or a lesser period specified on the consent. May only specify less than 15 years if before the commencement of the SEPP the consent authority has adopted a policy for less than 15 years OR the area is undergoing change in accordance with an EPI to change nature of area</p>	<p>In accordance with this clause, any consent granted for this Development Application must include a condition that the consent will expire 15 years after the date on which the consent becomes effective and operates.</p> <p>It is noted that the Bayside Council had not adopted any policy to reduce the 15 year expiration time prior to the commencement of the SEPP and the area is not undergoing change in accordance with an EPI to change the nature of the area.</p>	Condition
<p>Cl. 20 Location of certain names and logos</p> <p>Name or logo of person who owns or leases an advertisement or structure may appear only within the advertising display area. If no borders or surrounds, the name or logo must be within the advertisement or within a strip below the advertisement that extends the full width.</p>	Insufficient information has been provided to determine the location and size of the name/logo of the owner/leaser of the proposed advertisement. It is recommended a condition of consent is included that stipulates the required location and maximum size of the name/logo of the owner/leaser.	Condition
The area of the name or logo must not be greater than 0.25sqm and this area is to be included in calculating the size of the display area.	As above.	Condition
Schedule 1 – Assessment Criteria		
1 Character of the area		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposal replaces an existing bus shelter advertising panel with a new digital advertising panel in the same location and of the same size and dimensions. Accordingly, the proposal maintains the existing character and	Yes

SEPP 64 – Advertising and Signage	Proposal	Compliance
	is therefore considered compatible.	
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposal is consistent with bus shelter advertising in the locality and across the Sydney region.	Yes
2 Special Area		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal will simply replace an existing bus stop advertising panel with a new digital panel. The bus stop is located on a main road and therefore proposed advertising panel is consistent with the surroundings and will not detract from sensitive areas.	Yes
3 Views and Vistas		
Does the proposal obscure or compromise important views?	The proposal will simply replace an existing bus stop advertising panel with a new digital panel and as such view lines will remain as existing.	Yes
Does the proposal dominate the skyline and reduce the quality of vistas?	As above.	Yes
Does the proposal respect the viewing rights of other advertisers?	As above.	Yes
4 Streetscape, setting or landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed digital advertising panel is the same as the panel it will replace. This scale, proportion and form is consistent with typical bus shelter advertising in the streetscape.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal will provide a modern digital advertising panel replacing an older style scrolling panel. The modern panel is considered to contribute to visual interest in the streetscape.	Yes
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal will provide a modern digital advertising panel replacing an older style scrolling panel. The modern panel is considered to simplify the existing advertising as it will not require ongoing physical poster replacements.	Yes
Does the proposal screen unsightliness?	The proposal provides a high quality finish to the bus shelter which adds visual interest to an unsightly bus shelter.	Yes

SEPP 64 – Advertising and Signage	Proposal	Compliance
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposal does not protrude above buildings, structures or tree canopies in the locality with a maximum height of 2.492m above ground level.	Yes
Does the proposal require ongoing vegetation management?	The proposal is located in a bus shelter on hard paving which is not surrounded by vegetation and as such ongoing vegetation management is not required.	Yes
5 Site and building		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed advertising is fully integrated into the design of the bus shelter, forming the side wall. It is therefore considered compatible.	Yes
Does the proposal respect important features of the site or building, or both?	The proposed advertising is fully integrated into the design of the bus shelter, forming the side wall. It is therefore considered to respect the important features of the bus shelter.	Yes
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposal is considered to show innovation in that it is a modern digital advertising structure that is fully integrated into the existing bus shelter.	Yes
6 Associated devices and logos with advertisements and advertising structures		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as well as ambient lighting.	Yes
7 Illumination		
Would illumination result in unacceptable glare?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as well as ambient lighting.	Yes
Would illumination affect safety for pedestrians, vehicles or aircraft?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as	Yes

SEPP 64 – Advertising and Signage	Proposal	Compliance
	well as ambient lighting.	
Would illumination detract from the amenity of any residence or other form of accommodation?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as well as ambient lighting. Accordingly, it is considered that the illumination is acceptable and will not detract from residences.	Yes
Can the intensity of the illumination be adjusted, if necessary?	The proposed digital advertising panel has adjustable intensity of illumination.	Yes
Is the illumination subject to a curfew?	There is no curfew for illumination at this location.	Yes
8 Safety		
Would the proposal reduce the safety for any public road?	The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. Accordingly, the advertising is will maintain the existing safety situation.	Yes
Would the proposal reduce the safety for pedestrians or bicyclists?	The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. Accordingly, the advertising is will maintain the existing safety situation.	Yes
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. Accordingly, the advertising is will maintain the existing safety situation.	Yes

Draft Transport Corridor Outdoor Advertising and Signage Guidelines	Proposal	Compliance
2.5.8 Digital Signs – Criteria – Signs less than 20m²	The proposed digital advertising panel has an area of 2m ² on each side for a total of 4m ² . Therefore, the below controls are considered relevant.	
a) Each advertisement must be displayed in a completely static manner, without any motion, for the approved dwell time as per criterion (d) below.	The submitted SEE notes that the advertisement will be displayed in a static manner and for the approved dwell time. It is recommended a condition of consent is included that ensures compliance.	Condition
(b) Message sequencing designed to	Insufficient information has been	Condition

Draft Transport Corridor Outdoor Advertising and Signage Guidelines	Proposal	Compliance
make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.	submitted to determine compliance. This is considered appropriate to be resolved via a condition.	
(c) The image must not be capable of being mistaken: (i) For a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device, or (ii) as text providing driving instructions to drivers.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition. Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition Condition
(d) Dwell times for image display are: (i) 10 seconds for areas where the speed limit is below 80km/h. (ii) 25 seconds for areas where the speed limit is 80km/h and over.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition. The speed limit along this section of the Princes Highway is not 80km/h and over.	Condition N/A
(e) The transition time between messages must be no longer than 0.1 seconds.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition
(f) Luminance levels must comply with the requirements in Table 3 below.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition
(g) The images displayed on the sign must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Yes Condition
(h) The amount of text and information supplied on a sign should be kept to a minimum (for example no more than a driver can read at a short glance). Text should preferably be displayed in the same font and size. Table 6 in Section 3 of these Guidelines provides further guidance.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition

Draft Transport Corridor Outdoor Advertising and Signage Guidelines	Proposal	Compliance
(i) Any sign that is within 250 metres of a classified road and is visible from a school zone must be switched to a fixed display during school zone hours.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition
(j) Each sign proposal must be assessed on a case by case basis including replacement of an existing fixed, scrolling or tri-vision sign with a digital sign and in the instance of a sign being visible from each direction, both directions for each location must be assessed on their own merits.	The proposal to replace an existing scrolling sign with a digital sign has been assessed on its own merits and is considered acceptable.	Yes
(k) At any time, including where the speed limit in the area of the sign is changed, if detrimental effect is identified on road safety post installation of a digital sign, RMS reserves the right to re-assess the site which may result in a change to the dwell time or removal of the sign.	This is considered acceptable to be conditioned.	Condition

ROCKDALE LEP 2011	PROPOSAL	Compliance
4.3(2) Height of buildings		
• N/A	2.492m	N/A
4.4(2) Floor space ratio		
• N/A	The proposal is for advertising which is not included in GFA and therefore there is no FSR.	N/A

ROCKDALE DCP 2011	Proposal	Compliance
6.4 Advertising and Signage		
Inappropriate Sign Types		
1) The erection of the following types of signs is not permitted:	The proposal is for the replacement of an existing bus shelter advertising panel with a new digital advertising panel that is not any of the listed signage types.	Yes

ROCKDALE DCP 2011	Proposal	Compliance
<ul style="list-style-type: none"> a) flashing, moving or video signs b) signs other than building identification signs above the awning in a Commercial zone; c) a sign erected on or above the parapet of a building, other than a building identification sign; d) a sign attached to a building and capable of movement; e) Projecting wall sign (attached to a wall and projecting horizontally more than 300mm). 		
Streetscape and Amenity		
2) Any signage proposed within an open space or infrastructure zone will be assessed on its merit, with consideration including the effect on the amenity of adjacent residential properties.	The proposed advertising panel is located within an infrastructure zone and has been assessed on its merits with consideration being had for the effect on the amenity of the adjacent residential properties. The digital panel will be oriented towards the road users and as such will not face adjacent residential properties.	Yes
3) In order to protect the amenity of residential uses adjoining commercial area, advertising in commercial zones are not permitted on walls or structures facing adjoining residential zones.	The proposed advertising is not located in a commercial zone.	N/A
4) In circumstances where the amenity of nearby residential areas will not be detrimentally affected, illumination may be permitted.	The proposed advertising panel utilised an LCD display which is considered a form of illumination. This is considered acceptable given the character of the area being a classified road where the ambient illumination of the area will be minimally affected by the panel. Furthermore, the panel will not be facing any residential properties.	Yes
5) Electrical conduits to illuminated signs are to be taken directly into the building or otherwise screened to the satisfaction of Council.	Insufficient details have been provided to determine the electrical conduit arrangement that is proposed.	Condition
6) The size, scale and number of advertisements and advertising structures respond to their context, and integrate with the streetscape rather than dominating it.	The proposed advertising is fully integrated into the design of the bus shelter, forming the side wall. It is therefore considered to respond to the context and integrate into the bus	Yes

ROCKDALE DCP 2011	Proposal	Compliance
	shelter and the streetscape.	
7) The colours used in the design of an advertising sign or structure must complement the colour finish of the building to which it will be attached.	The proposed digital advertising panel will have a black frame which is considered a neutral colour that will complement the bus shelter.	Yes
8) Corporate colours should be limited to the advertising sign or structure, and should not be applied to the painted surface of the building.	No corporate colours are proposed to be applied to the painted bus shelter.	Yes
9) Advertising should not impact upon natural features and any trimming or lopping of significant trees should be avoided at all times. Where this is absolutely necessary details of the extent of the lopping and identification of the specific trees will be required with the application.	The proposed digital advertising panel will simply replace the existing advertising panel and will not impact any natural features.	Yes
Size		
10) The maximum advertising area for:		
a) Commercial zones is 0.5m ² of advertising area per 1m of shopfront;	The proposed advertising panel is not located in a commercial zone.	N/A
b) Enterprise Corridor and Industrial zone is 1m ² of advertising area per 3m of street frontage.	The proposed advertising panel is not located in an enterprise corridor or industrial zone.	N/A
11) Signs must be of a size and proportion which complements the scale and proportion of the existing facade, as well as surrounding buildings and signs.	The scale, proportion and form of the proposed digital advertising panel is the same as the panel it will replace. This scale, proportion and form is consistent with typical bus shelter advertising in the streetscape.	Yes
12) Health Consulting Rooms in a residential zone are permitted a single advertisement located wholly within the boundary of the subject property and with a maximum size of 0.75 m ² .	The proposal does not relate to a Health Consulting Room.	N/A
Design		
13) A signage strategy is to be submitted with a development application for any building that requires advertising or signage and must include details of the location, type, construction	The proposed development is to replace an existing bus shelter advertising panel with a new digital advertising panel in the same location and of the same size and dimensions.	Yes

ROCKDALE DCP 2011	Proposal	Compliance
and total number and size of signs on the building/site.	Given the similarity to the existing advertising, a signage strategy is not considered necessary and it has not been submitted with the development application.	
14) Where a building or site contains multiple tenancies or uses, a coordinated approach for all signs is required.	The bus shelter where the advertising is proposed to be located does not contain multiple tenancies or uses.	N/A
15) All advertisements in a foreign language must contain a legible English equivalent.	The proposed development is for the advertising panel and not the future content of the advertisements.	N/A
16) Advertising structures are to form an integrated part of the facade of buildings and must reinforce architectural elements and design.	The proposed advertising panel is fully integrated into the design of the bus shelter, forming the side wall.	Yes
17) Signage must not obscure decorative forms or mouldings and must observe a reasonable separation distance from the lines of windows, doors, parapets, piers, and the like.	The proposed advertising panel is fully integrated into the design of the bus shelter, forming the side wall.	Yes
18) Materials used must be durable, fade and corrosion proof and of a high aesthetic quality.	The proposed digital advertising panel has a high aesthetic quality and the materials are considered to be appropriate for durability.	Yes
Impact on Heritage Significance		
19) Advertising proposed for heritage items must have regard to its heritage significance and must complement the item. The architectural characteristics of a building should always dominate.	The proposed advertising panel is not located on a heritage item.	N/A
20) Signs on buildings or in areas of heritage significance must not by their size, design or colour detract from the character or significant qualities of individual buildings, their immediate context or the wider streetscape context of the area.	The proposed advertising panel is not located on a heritage item, is not within the vicinity of a heritage item, and is not within a heritage conservation area.	N/A
21) Historic signs may have their own significance and must not be obscured or diminished by later signage.	The existing advertising panel to be replaced is a typical scrolling poster bus shelter panel which is not considered to be of any historic significance.	Yes
Safety		
22) Advertising signs and their		

ROCKDALE DCP 2011	Proposal	Compliance
supporting structures must not be:		
a) hazardous to passers-by;	The proposed advertising panel will not be a hazard to passers-by, rather it will improve safety as it replaces an older panel with a modern digital panel.	Yes
b) located so as to be hazardous for traffic safety and must not obscure a driver's or pedestrian's view of road or rail vehicles, pedestrians or features of the road, railway or footpath (e.g. junctions, bends, changes in width);	The proposal will replace an existing advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel. It is not considered to be inappropriately located.	Yes
c) so highly illuminated that they cause discomfort to, or inhibit vision of drivers or pedestrians;	It is recommended a condition is imposed that requires compliance with the Digital Advertising Criteria from the <i>Draft Transport Corridor Outdoor Advertising and Signage Guidelines</i> which contains provisions relating to illumination.	Condition
d) mistaken as an official traffic sign and must not distract a drivers attention or be confused with instructions given by traffic signals.	Given the prevalence of bus shelter advertising panels and that the panel is fully integrated into the bus shelter, it is considered unlikely that the advertising panel will be mistaken as an official traffic sign.	Yes

Summary of Issues/Non compliances:

Resolved via condition

- SEPP 64 *Draft Transport Corridor Outdoor Advertising and Signage Guidelines* – The draft guidelines contain specific digital advertising criteria. These relate to technical details of illuminance levels, dwell times of advertisements etc. that are unreasonable to request at Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria from the draft guidelines.
- SEPP 64 Expiration of Consent – Clause 14 requires that consents granted under the SEPP expire 15 years after the date the consent becomes effective and operates. Accordingly, it is recommended that a condition is imposed that expires the consent after 15 years.
- SEPP 64 Name/logo location and size – Clause 20 contains requirements for the location and size of the name or logo of the person who owns or leases the advertisement. Insufficient details have been provided to determine

compliance and as such it is recommended a condition is imposed requiring compliance.


- RDCP2011 Electrical conduits - Control 5 of Part 6.4 requires that electrical conduits of illuminated signs be taken directly into the building or otherwise screened to the satisfaction of Council. Insufficient details have been provided of the proposed electrical arrangement for the digital advertising panel to determine compliance and as such it is recommended a condition is imposed requiring compliance.

Certification

I certify that all of the above issues have been accurately and professionally examined by me.

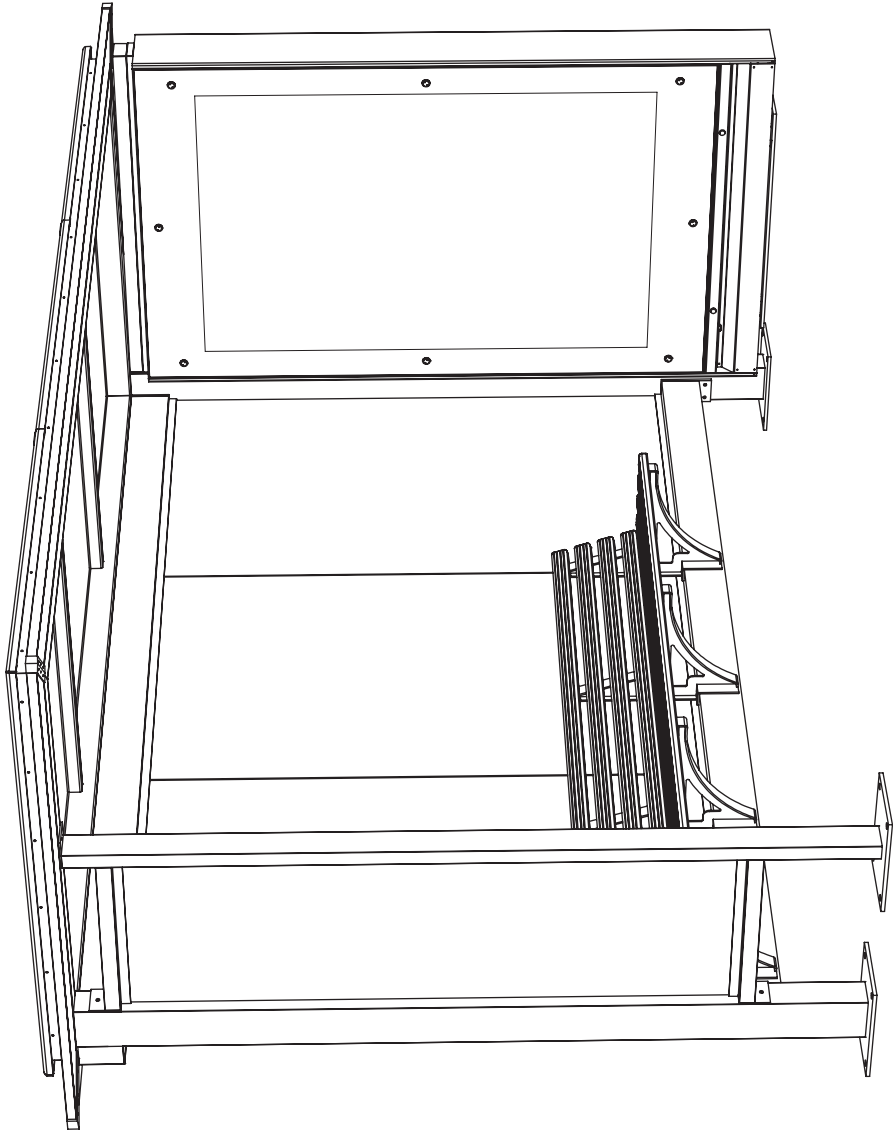
Name James Arnold.

Signature

A handwritten signature in black ink, appearing to read 'James Arnold', written in a cursive style.

Date 23 January 2017

GENERAL ASSEMBLY DRAWING

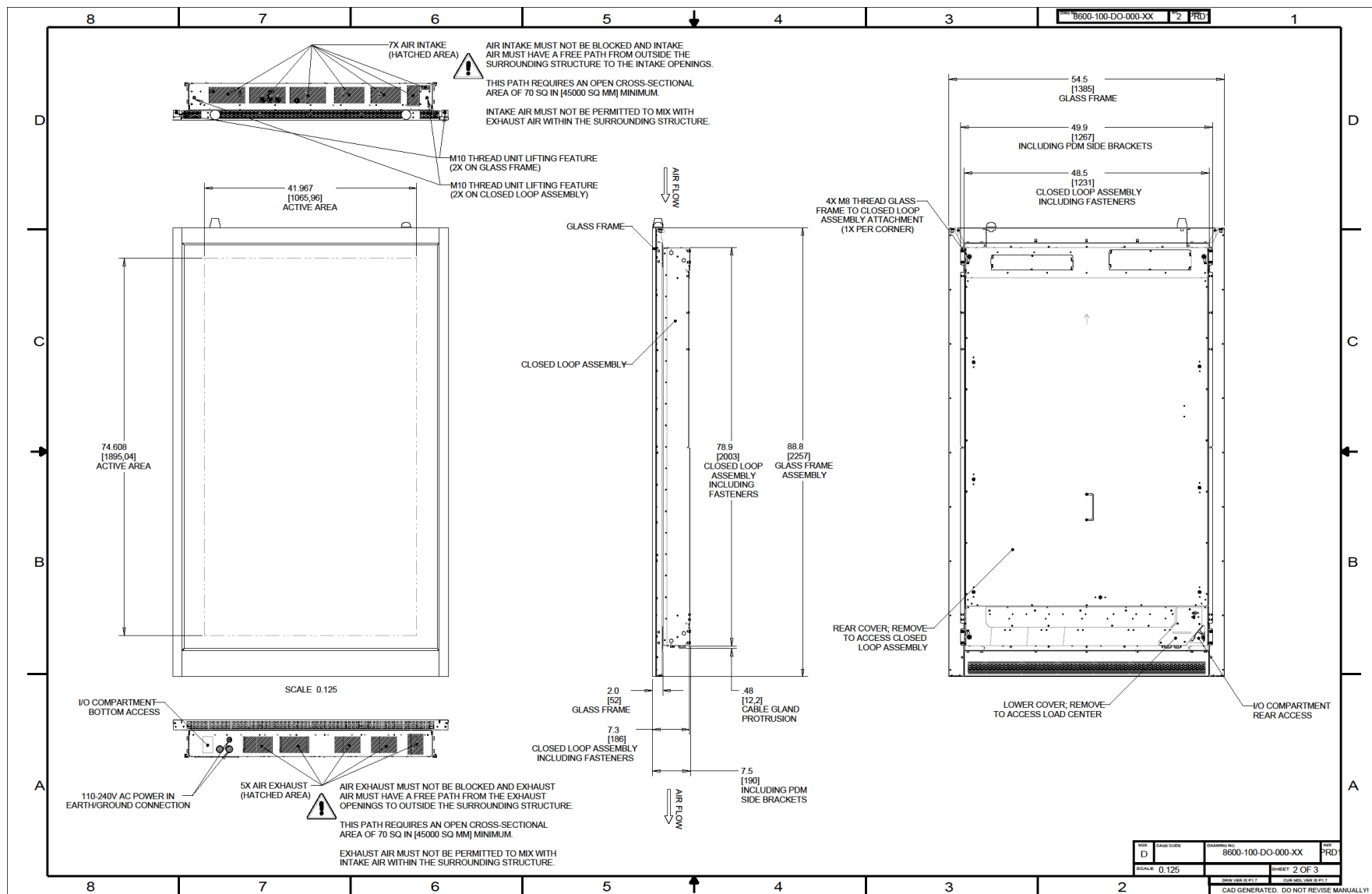


FRONT ELEVATION

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MRI, Inc.





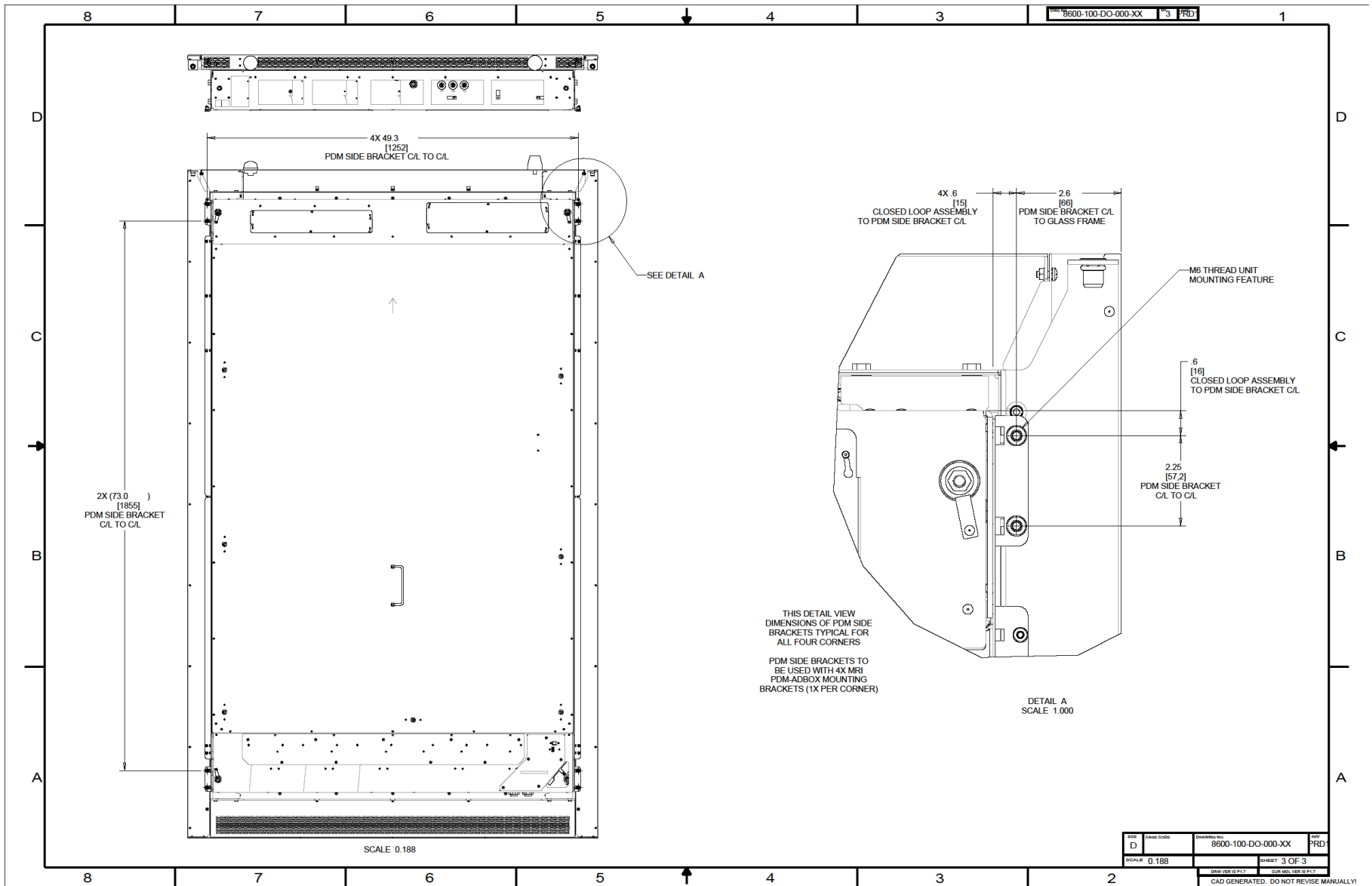


Figure 3. Outline drawing (3 of 3)

Council Meeting

8/03/2017

Item No	9.13
Property	ROAD 195 The Grand Parade Monterey (fronting 148 The Grand Parade)
Proposal	Replacement of existing bus shelter advertising panel with new digital advertising panel
Cost of Development	\$5000
Report by	Creative Planning Solutions Pty Ltd
Application No	DA-2017/125

Council Resolution

- 1 That Development Application No. 2017/125 which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 194 The Grand Parade, Ramsgate Beach (Fronting 148 The Grand Parade) be APPROVED pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the attached conditions of consent.
 - 2 That the objectors be advised of Council's decision.
-

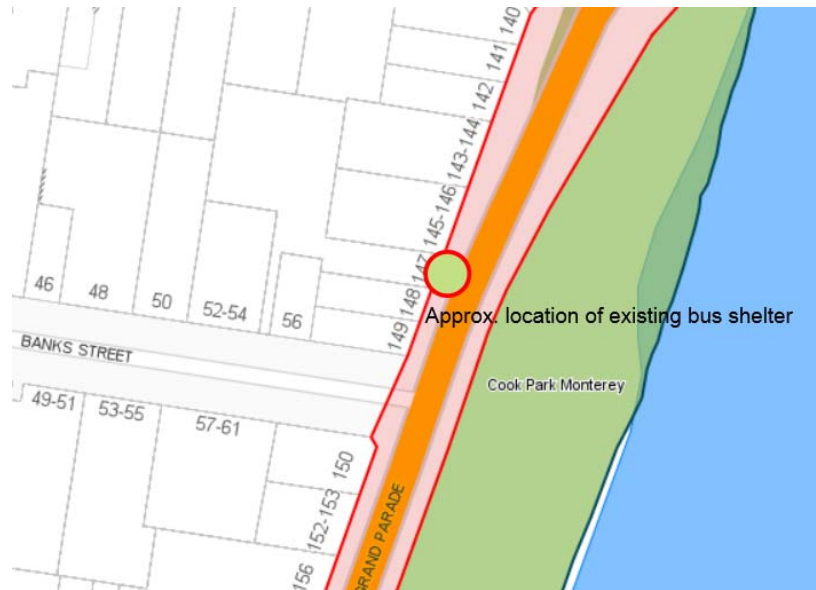
Officer Recommendation

- 1 That Development Application No. 2017/125 which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 194 The Grand Parade, Ramsgate Beach (Fronting 148 The Grand Parade) be APPROVED pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the attached conditions of consent.
 - 2 That the objectors be advised of Council's decision.
-

Attachments

- 1 Planning Assessment Report
 - 2 Draft Notice of Determination
 - 3 Compliance Checklist
 - 4 Bus Shelter Drawing
 - 5 Advertising Panel Drawing
-

Location Plan



BAYSIDE COUNCIL

COUNCIL REPORT

1. APPLICATION DETAILS

Property:	ROAD 195 The Grand Parade, Monterey (Fronting 148 The Grand Parade) NSW 2217
Proposal:	Replacement of existing bus shelter advertising panel with new digital advertising panel.
Date Lodged:	11 October 2016
File Number:	DA-2017/125
Owner:	Bayside Council
Author:	James Arnold – Creative Planning Solutions Pty Limited
Coordinator:	Marta Gonzalez-Valdes – Coordinator Major Assessment Team

2. REPORT SUMMARY

This report considers a Development Application (DA) which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 195 The Grand Parade, Monterey (Fronting 148 The Grand Parade).

No significant issues were identified in the assessment and some minor issues have been resolved via conditions of consent which are discussed as follows:

- SEPP 64 *Draft Transport Corridor Outdoor Advertising and Signage Guidelines* – The draft guidelines contain specific criteria for digital advertising. These criteria relate to technical details of illuminance levels, dwell times of advertisements etc. that are unreasonable to request at the Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria from the draft guidelines.
- SEPP 64 Expiration of Consent – Clause 14 requires that consents granted under the SEPP expire 15 years after the date the consent becomes effective and operates. Accordingly, it is recommended that a condition is imposed that expires the consent after 15 years.
- SEPP 64 Name/logo location and size – Clause 20 contains requirements for the location and size of the name or logo of the person who owns or leases the advertisement. Insufficient details have been provided to determine compliance and as such it is recommended a condition is imposed requiring compliance.

- RDCP2011 Electrical conduits – Part 6.4 Control 5 requires that electrical conduits of illuminated signs be taken directly into the building or otherwise screened to the satisfaction of Council. Insufficient details have been provided of the proposed electrical arrangement for the digital advertising panel to determine compliance and as such it is recommended a condition is imposed requiring compliance.

Having regard to the matters for consideration in Section 79C(1) of the *Environmental Planning and Assessment Act 1979* (the Act), the following has been determined:

- When assessed against the relevant environmental planning instruments pertaining to the proposed development, including the State Environmental Planning Policy No. 64 – Advertising and Signage and the Rockdale Local Environmental Plan 2011, the proposal satisfactorily complies with the applicable objectives and provisions;
- When assessed against the relevant provisions of the Rockdale Development Control Plan 2011, the proposal complies with the relevant development controls. Where non-compliances with development controls have been identified, these are considered to be satisfactorily justifiable;
- The likely impacts of the proposed development have been considered and determined to be minimal and be satisfactory;
- The site is considered suitable for the proposed development; and,
- Having regard for the level of compliance with the applicable planning controls, the proposed development is considered to be in the public interest.

3. RECOMMENDATION

That Development Application No. 2017/125 which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 195 The Grand Parade, Monterey (Fronting 148 The Grand Parade) be APPROVED pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the attached conditions of consent.

4. BACKGROUND

The subject DA was lodged with Council on 11 October 2016. The DA was notified to the public from 21 October 2016 to 8 November 2016. One (1) submission was received which has been addressed in this report.

A review of the subject site's development history using Council's online Development Application search returned with no results. This suggests that the subject site has not been subject to any works requiring Council approval since 1 July 2004, since the ePlanning portal applies to applications submitted after 1 July 2004.

5. PROPOSAL

Council is in receipt of Development Application DA-2017/125 at 195 The Grand Parade, Monterey (Fronting 148 The Grand Parade) which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel.

Details of the proposed development are as follows:

- Remove the existing static-scrolling poster advertising panel,
- Install a LED digital advertising panel where the existing panel is located. The new panel has the following specifications:
 - Two sided,
 - 1895mm x 1065mm dimensions,
 - 2m² each side of panel,
 - Maximum height of 2.492m above the footpath level.

The submitted Statement of Environmental Effects provides the following additional details about the proposed advertising panel:

The advertisements will be on a 10 second dwell time with instantaneous transitioning between advertisements. No animation or dynamic digital display is proposed...The panel has been designed to adopt the national guidelines for digital display illumination, brightness, and transition timeframes, taking into account day/night time transitions, as well as ambient lighting.

6. EXISTING AND SURROUNDING USES

The subject site is the road reservation of The Grand Parade. The address of the subject site is 195 The Grand Parade, Monterey, and the bus shelter where the proposed advertising is to be located is in front of 148 The Grand Parade, Monterey on the western side of the road between the intersections with President Avenue and Banks Street.

The Grand Parade is a classified road that runs north-south along Botany Bay from Dolls Point in the south to Brighton Le Sands in the north. The Grand Parade is a four to six lane road with travel lanes in both directions and parking lanes along portions of the road. Adjacent to the bus shelter are three northerly travel lanes on the western side of the road and two southerly travel lanes on the eastern side of the road.

The bus shelter which the proposed advertising panel will be installed on, is a typical Sydney bus shelter with one open side to the street. The bus shelter is constructed with metal posts with a glass back, an advertising panel the side, and a flat metal roof. The bus shelter sits on the concrete footpath. The existing advertising panel is two sided and contains static-scrolling poster advertisements.

The surrounding locality is characterised by medium density residential in the form of two to four storey 'walk-up' residential flat buildings on the western side of The Grand Parade and the natural features of Cook Park and the beach on the eastern side of The Grand Parade.

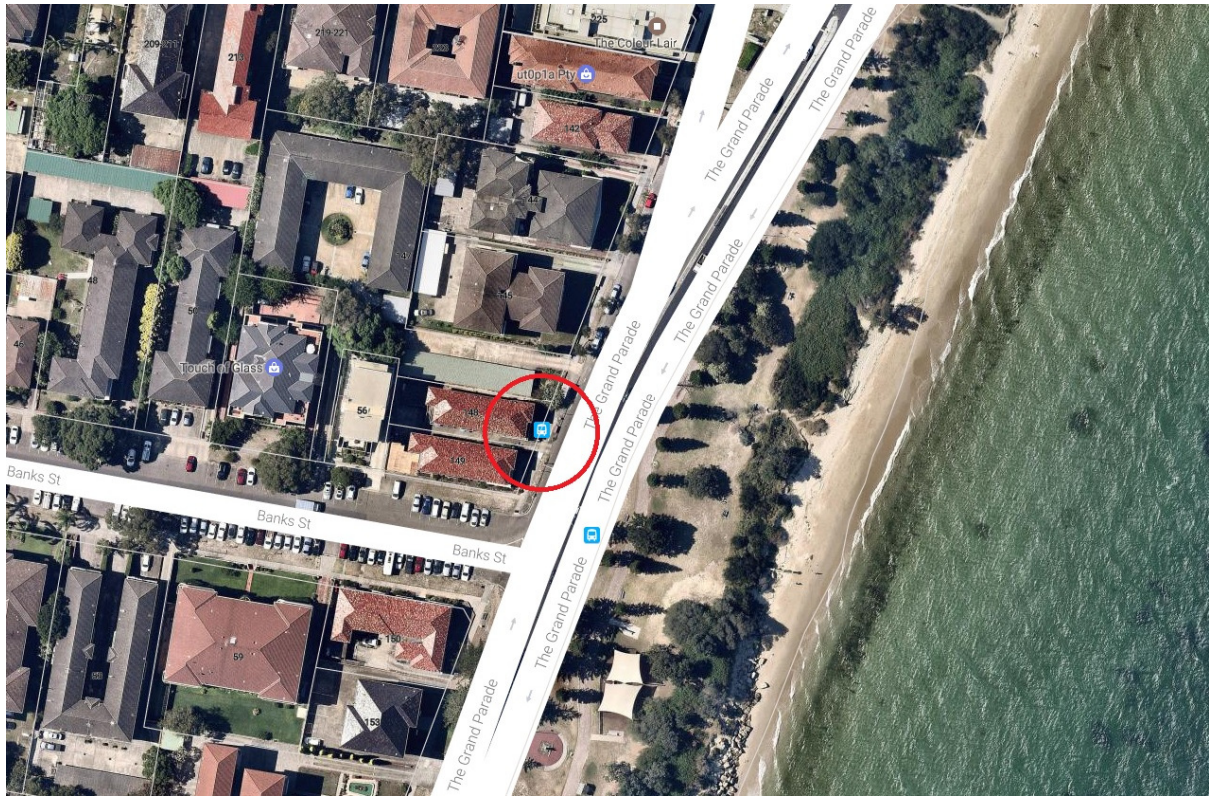


Figure 1: Location of bus shelter where the digital advertising panel is proposed circled in red
(Source: nearmap.com.au)



Figure 2: Bus Shelter and existing advertising panel to be replaced looking south
(Source: CPS, 2016)



Figure 3: Bus Shelter and existing advertising panel to be replaced looking north
(Source: CPS, 2016)

7. REFERRALS

7.1. EXTERNAL

The Development Application was referred to the following external authorities:

- Roads and Maritime Services (RMS) – The development application was referred to the RMS on 20 October 2016 and a response was received on 17 November 2016. The response stated that the development application was not required to be referred to the RMS and as such no comment was provided.
- State Transit Authority (STA) – The development application was referred to STA and a response was received on 11 November 2016. The response stated that no objection was raised to the works however STA requested notification when the works will be carried out and if the requirement to close the bus stop during the construction is required. These requests are recommended to be imposed as conditions of consent.

7.2. INTERNAL

The Development Application was not referred to any internal departments:

8. PLANNING CONSIDERATIONS - SECTION 79C OF THE EP&A ACT 1979

The following is an assessment of the proposed development under the provisions of Section 79C(1) of the *Environmental and Planning Assessment Act 1979* (the Act).

8.1 PROVISIONS OF ENVIRONMENTAL PLANNING INSTRUMENTS (S.79C(1)(a)(i))

8.1.1 State Environmental Planning Policy No. 64 – Advertising and Signage

Clause 6 – Signage to which this policy applies

SEPP 64 is considered to apply to the proposed development which is discussed below.

The proposed development meets the definition of ‘signage’ under the provisions of SEPP 64. This is because the proposed sign constitutes an ‘advertisements’ to which Part 3 of SEPP 64 applies.

In accordance with Clause 9, the proposed development is considered to be an ‘advertisement’ (which is a type of signage) and an ‘advertising structure’ as it is not a business identification sign, building identification sign, signage that is exempt development, or signage on vehicles. The relevant definitions from the SEPP are provided below.

advertisement means signage to which Part 3 applies and includes any advertising structure for the advertisement.

Note. Part 3 applies to all signage other than business identification signs, building identification signs, signage that is exempt development, or signage on vehicles

advertising structure means a structure or vessel that is principally designed for, or that is used for, the display of an advertisement.

Clause 6 of SEPP 64 outlines the following with regard to signage to which SEPP 64 applies:

(1) *This Policy applies to all signage:*

- a) *that, under another environmental planning instrument that applies to the signage, can be displayed with or without development consent, and*
- b) *is visible from any public place or public reserve,*

except as provided by this Policy.

Note. Public place and public reserve are defined in section 4 (1) of the Act to have the same meanings as in the Local Government Act 1993.

(2) *This Policy does not apply to signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it, or that is exempt development under this Policy.*

In accordance with Clause 6, SEPP 64 applies to the proposed development as it can be displayed with development consent under the RLEP2011 (refer to permissibility discussion under RLEP section of this report) and will be visible from a public place or public reserve.

It is noted that the proposal does not satisfy Clause 6(2) as the proposal is not considered to meet the exempt development provisions under other environmental planning instruments. The proposal is not identified as exempt development under RLEP2011, nor is it identified under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Furthermore, the proposal would not constitute exempt development under the provisions of *State Environmental Planning Policy (Infrastructure) 2007*.

Given the above, SEPP 64 is considered to apply to the proposed development and the following are the relevant provisions from the SEPP that have been taken into consideration:

Clause 3 – Aims, objectives etc

The proposed advertising panel is considered to be consistent with the aims of the SEPP for the following reasons:

- The proposal will replace an existing scrolling poster bus shelter advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel providing a modern upgrade which is compatible with the desired amenity and visual character of the Monterey area.
- The advertising panel will be located on the side of a bus shelter which provides for an effective and efficient means of communication and given it is adjacent to a classified road it is considered to be a suitable location.
- The proposed modern digital advertising panel is considered to be of high quality design and finish.

Clause 10 – Prohibited advertisements

As discussed above, the proposed development is considered to be an ‘advertisement’ in accordance with the definitions contained within Clause 4 and the provisions of Clause 9. Clause 10 stipulates that the display of advertisements is prohibited in the following zones: environmentally sensitive area, heritage area, natural or other conservation area, open space, waterway, residential, scenic protection area, national park, and nature reserve.

The proposed bus stop advertisement is located on land zone SP2 – Infrastructure which is not a listed zone. Accordingly, the development is not prohibited under this clause.

Clause 12 – Consent Authority

The proposed advertisement is to be located in the Bayside Local Government Area and Cl. 12(c), (d), or (e) do not apply. Therefore, Bayside Council is the consent authority.

Clause 13 – Matters for consideration

The matters for consideration stipulated in Clause 13(1) are considered to apply to the subject proposal as Council is the consent authority and Clause 18 or 24 do not apply. Therefore, the matters for consideration for the subject Development Application are as follows:

- a) *is consistent with the objectives of this Policy, and*

As discussed above, the proposal is considered to be consistent with the objectives of the SEPP.

- b) *assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and*

The proposal has been assessed in accordance with the assessment criteria in Schedule 1 and is considered acceptable in terms of its impacts.

- c) *satisfies any other relevant requirements of this Policy*

The proposal satisfies the other relevant requirements of the SEPP. It is noted that the, although not a matter for consideration for the proposal, the *Draft Transport Corridor Outdoor Advertising and Signage Guidelines* have been considered as it provides specific requirements for digital advertising. The proposal is considered to satisfy the relevant provisions of that document subject to conditions of consent.

It is noted that whilst not a matter for consideration for the subject proposal, the *Draft Transport Corridor Outdoor Advertising and Signage Guidelines*, have been considered as they contain specific provisions relating to Digital Advertising. These criteria relate to technical details of illuminance levels, dwell times of advertisements etc. that are unreasonable to request at the Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria from the draft guidelines.

Clause 14 – Duration of consents

In accordance with this clause, any consent granted for this Development Application must expire 15 years after the date on which the consent becomes effective and operates.

It is noted that the Bayside Council had not adopted any policy to reduce the 15 year expiration time prior to the commencement of the SEPP and the area is not considered to be undergoing change in accordance with an EPI to change the nature of the area. Accordingly, the 15 year expiration clause applies and it is recommended a condition of consent to this effect is imposed.

Clause 20 – Location of certain names and logos

Insufficient information has been provided to determine the location and size of the name/logo of the owner/leaser of the proposed advertisement. It is recommended a condition of consent is included to ensure compliance with this clause.

8.1.2 Rockdale Local Environmental Plan 2011

The following are relevant matters from the LEP that have been taken into consideration.

Clause 2.1 – Land Use Zones

The Grand Parade road corridor is zoned SP2 – Infrastructure. Within the SP2 zone, development permitted with consent includes:

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.

The purpose shown on the Land Zoning Map where the advertising is proposed is ‘Classified Road’. Accordingly, the road and any development that is ordinarily incidental or ancillary to development for the purpose of a Classified Road is also permitted with consent. All other forms of development are identified as being prohibited within the SP2 zone, except that for the purposes of ‘roads’ which is permissible without consent.

The proposed development is considered to be for both an ‘advertisement’ and the associated ‘advertising structure’ on which the advertisement is to be displayed. The RLEP refers to the *Environmental Planning and Assessment Act 1979* for the relevant definitions which are as follows.

advertisement means a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

advertising structure means a structure used or to be used principally for the display of an advertisement.

Given the above, for the proposed advertisement/advertising structure to be permissible in the zone, it must be considered as *ordinarily incidental or ancillary* to a Classified Road.

It is considered that the provision for *ordinarily incidental* to development for a Classified Road would reasonably include a bus shelter advertising panel in the particular form proposed. The reason for this is the high prevalence of bus shelter advertisements in the particular form and scale that is proposed. That is, the advertising panel forms the side of the bus shelter and is fully integrated into and fundamental to the structure and functioning of the bus shelter as would be ordinarily found on many, if not most, bus shelters on Classified Roads across NSW. The fundamental aspect of what makes the proposed advertising panel *ordinarily incidental*, is that it takes the form of a bus shelter advertising panel that would be ordinarily encountered within a bus shelter on a Classified Road. Therefore, to provide further clarity, this argument would not apply to a bus shelter advertising panel which is not ordinarily encountered, such as if it protruded above the roof of the bus shelter.

Accordingly, it is considered the proposed advertising panel is permitted with consent in the zone.

Clause 4.3 – Height of Buildings

There is no maximum height of buildings specified for the subject site.

It is noted that the maximum height of the proposed advertising panel is 2.492m above the footpath level below.

Clause 4.4 – Floor Space Ratio

There is no maximum floor space ratio specified for the subject site.

It is noted that the proposed advertising panel does not constitute gross floor area and therefore does not have a floor space ratio.

Clause 5.9 – Preservation of trees or vegetation

Clause 5.9 of LEP2011 prescribes that a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by development consent, or a permit granted by the Council.

The proposed digital advertising panel will simply replace the existing advertising panel and will not impact any trees or vegetation.

Accordingly, the proposed development is considered to satisfy Clause 5.9.

Clause 5.10 Heritage Conservation

The proposed advertising panel will be located opposite to a heritage item (I168) known as Cook Park which is of local significance. The digital advertising panel provides an upgrade to the existing panel it will replace which is considered to be an improvement to the heritage values of the opposite park.

Accordingly, there are no heritage concerns with the proposed development pursuant to Clause 5.10.

Clause 6.1 – Acid Sulfate Soils

The subject site has been identified as being affected by Acid Sulfate Soils (ASS) – Class 4. The proposal does not involve any significant disturbance of the soils that would trigger a requirement for an Acid Sulfate Soils Management Plan. Accordingly, the proposal satisfies Clause 6.1.

8.2 PROVISIONS OF ANY PROPOSED INSTRUMENT THAT IS OR HAS BEEN THE SUBJECT OF PUBLIC CONSULTATION UNDER THIS ACT AND THAT HAS BEEN NOTIFIED TO THE CONSENT AUTHORITY (S.79C(1)(a)(iii))

No draft environmental planning instruments have been identified that are relevant to the proposed development.

8.3 PROVISIONS OF DEVELOPMENT CONTROL PLANS (S.79C(1)(a)(iii))

8.3.1 Rockdale Development Control Plan 2011

The proposed development has been assessed against the *Rockdale Development Control Plan 2011* (RDCP 2011). For full reference of the RDCP 2011 assessment please refer to the detailed compliance check document attached to this report. A summary of compliance for the proposed development is provided below:

Part 6.4 – Advertising and Signage

Part 6.4 of the DCP relates to advertising and signage and therefore applies to the proposed development. It has been determined that the proposal complies with the relevant objectives and controls within this part, with the exception of one control which can be conditioned to comply as discussed below.

Part 6.4 Control 5 requires that electrical conduits of illuminated signs be taken directly into the building or otherwise screened to the satisfaction of Council. Insufficient details have been provided of the proposed electrical arrangement for the digital advertising panel to determine compliance and as such it is recommended a condition is imposed requiring details be submitted and compliance achieved prior to Construction Certificate.

8.4 PROVISIONS OF REGULATIONS (S.79C(1)(a)(iv))

The provisions of the regulations have been considered in the assessment of this development proposal where relevant.

8.5 IMPACT OF DEVELOPMENT (S.79C(1)(b))

8.5.1 Road safety

The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. The *Draft Transport Corridor Outdoor Advertising and Signage Guidelines*, have been considered in the assessment as they contain specific provisions relating to Digital Advertising. These criteria relate to technical details of illuminance levels, dwell times of advertisements etc, that are related to achieving a satisfactory level of road safety. Most of the technical details required to determine compliance have not been provided and are considered unreasonable to request at the Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria which will ensure a level of road safety is achieved in accordance with the draft guidelines.

8.5.2 Views and Vistas

The proposal will replace an existing bus shelter advertising panel with a new digital panel in the same location and the same size and dimensions. Accordingly, the view and vista to the adjoining Cook Park and Botany Bay is considered to be maintained as existing which is acceptable.

8.5.3 Character / Streetscape

The proposal will replace an existing scrolling poster bus shelter advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel. This is considered to provide a modern upgrade for the advertisement which is compatible with the desired amenity and visual character of the Monterey area.

8.6 SUITABILITY OF THE SITE (S.79C(1)(c))

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Conditions of consent, including compliance with soil and erosion measures, and stormwater management are proposed to further minimise any impacts on the subject land or adjoining land as a result of the proposal.

The subject site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered and given the nature of the development and the long-standing use of the land for the purpose of a road, onsite investigation is not warranted.

There are no other major physical constraints or exceptional circumstances that would hinder the suitability of the site for the proposed development have been identified.

Accordingly, the site is considered suitable for the development.

8.7 SUBMISSIONS (S.79C(1)(d))

The DA was notified to the public from 21 October 2016 to 8 November 2016. One (1) submission was received. Below are the key issues raised in the submission and a comment below addressing each of the issues raised.

Issue 1: Existing bus shelter unsafe for use

Comment: The proposal is for the replacement of the existing advertising panel with a new digital advertising panel attached to the exiting bus shelter. The new advertising panel is unlikely to have any impact on the structural integrity or functioning of the existing bus shelter. A site inspection was conducted and the bus shelter appears to be structurally sound for the purpose of the development which is simply replacing the advertising panel.

Issue 2: Privacy and noise issues with commuters using bus shelter

Comment: The proposal is for the replacement of the existing advertising panel with a new digital advertising panel attached to the exiting bus shelter which will have no impact on the visual or acoustic privacy of adjoining residential properties.

Issue 3: Buses stopping at shelter block pedestrian and vehicular access to adjoining residential property

Comment: The proposal is for the replacement of the existing advertising panel with a new digital advertising panel attached to the exiting bus shelter which will have no impact on the particular location where buses will stop.

Issue 4: Unsafe bus stopping location

Comment: The proposal is for the replacement of the existing advertising panel with a new digital advertising panel attached to the exiting bus shelter which will have no impact on the particular location where buses will stop.

Issue 5: Public garbage bin unmaintained and often not cleared

Comment: The proposal is for the replacement of the existing advertising panel with a new digital advertising panel attached to the exiting bus shelter which does not relate to the nearby public garbage bin.

8.8 PUBLIC INTEREST (S.79C(1)(e))

The proposed development is considered to be in the public interest.

9. CONCLUSION

This application has been assessed in accordance with the matters for consideration of Section 79C of the Act. The Development Application seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 195 The Grand Parade, Monterey (Fronting 148 The Grand Parade).

The proposal has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979*. No significant issues have been identified and some minor issues have been resolved via conditions. The proposal is permissible in the SP2 – Infrastructure zone, the likely impacts are considered to be minimal and acceptable, and the development is considered to be suitable for the site and surrounding context.

Given the above, it is recommended that the application be approved pursuant to Section 80 of the Act and subject to the attached conditions of consent.

Our Ref: DA-2017/125
Contact: Marta M Gonzalez-Valdes 9562 1666

444-446 Princes Highway Rockdale NSW 2216
PO Box 21 Rockdale NSW 2216
T 1300 581 299 F 9562 1777
rcc@rockdale.nsw.gov.au
www.bayside.nsw.gov.au

Tract Consultants
8/80 Mount St
NORTH SYDNEY NSW 2060

NOTICE OF DETERMINATION

Issued in accordance with section 81(1a) of the *Environmental Planning and Assessment Act, 1979*

Application Number: DA-2017/125
Property: 195 The Grand Parade, MONTEREY NSW 2217
ROAD 194D
Proposal: Replacement of existing bus shelter advertising panel
with new digital advertising panel

Authority:

Determination:

Date of determination:

Date consent commences:

Date consent lapses:

General Conditions

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. The term of this consent is limited to a period of five (5) years from the date of the original approval. The consent will lapse if the development does not commence within this time.
2. This consent expires 15 years after the date this consent becomes effective and operates. A new development application shall be submitted for any continuance of the use.
3. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Plan/Dwg No.	Drawn by	Dated	Received by Council
PDM, BOLDVU Outline Drawing Sheet 1-3	Manufacturing Resources International	23 May 2016	11 October 2016
Mero Ad (Mains) Digital (R-Box) - General Assembly Drawings Sheet 1-4	Adshell	24 February 2016	11 October 2016
Site Plan –Adjoining 148 the Grand Parade, Monterey	Tract Consultants	August 2016	11 October 2016

4. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

Development specific conditions

The following conditions are specific to the Development Application proposal.

5. In accordance with the Draft Transport Corridor Outdoor Advertising and Signage Guidelines (prepared by NSW Department of Planning and Environment dated December 2015), the following must be adhered to:
 - a) Each advertisement must be displayed in a completely static manner, without any motion, for the approved dwell time as per criterion (d) below.
 - b) Message sequencing designed to make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.
 - c) The image must not be capable of being mistaken:
 - i) For a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device, or
 - ii) as text providing driving instructions to drivers.
 - d) Dwell times for image display are to be at least 10 seconds for areas where the speed limit is below 80km/h.
 - e) The transition time between messages must be no longer than 0.1 seconds.
 - f) Luminance levels must comply with Australian Standard AS4282 Control of the Obtrusive Effects of Outdoor Lightings. Table 3 of the Guidelines provides further guidance.
 - g) The images displayed on the sign must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.
 - h) The amount of text and information supplied on a sign should be kept to a minimum (for example no more than a driver can read at a short glance). Text should preferably be displayed in the same font and size. Table 6 in Section 3 of the Guidelines provides further guidance.
 - i) Any sign that is within 250 metres of a classified road and is visible from a school zone must be switched to a fixed display during school zone hours.
 - j) At any time, including where the speed limit in the area of the sign is changed, if detrimental effect is identified on road safety post installation of a digital sign, RMS reserves the right to re-assess the site which may result in a change to the dwell time or removal of the sign.

6. The following fees shall be paid to Council prior to installation of the sign. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
 - i. A Footpath Reserve Restoration Deposit of \$1,628.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
 - ii. An environmental enforcement fee of 0.25% of the cost of the works.
 - iii. A Soil and Water Management Sign of \$17.50.
7. Location of certain names and logos

The name or logo of the person who owns or leases an advertisement or advertising structure may appear only within the advertising display area. If the advertising display area has no border or surrounds, any such name or logo is to be located :

- i) within the advertisement, or
- ii) within a strip below the advertisement that extends for the full width of the advertisement.

The area of any such name or logo must not be greater than 0.25 square metres.

Electrical Conduits

Electrical conduits are to be taken directly into the bus shelter or otherwise screened to the satisfaction of Council.

Prior to commencement of works

The following conditions must be completed prior to the commencement of works.

8. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
9. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
 - i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - ii) building involves the enclosure of a public place,Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.
Where a development site adjoins a public thoroughfare with a footpath alongside

the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:

- (i) the vertical height above footpath level of the structure being demolished is less than 4m; or
- (ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must -

- (i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
- (ii) have a clear height above the footpath of not less than 2.1m;
- (iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and
- (iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

10. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
 - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
 - ii) where the erection of gates or fences has restricted access to metering equipment.

During demolition / excavation / construction

The following conditions must be complied with during demolition, excavation and or construction.

11. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
12. Adequate provisions are to be made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
 - Sediment control measures
 - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
 - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
13. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense.

Development consent advice

- a. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations

Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:

- choosing quiet equipment
 - choosing alternatives to noisy activities
 - relocating noise sources away from affected neighbours
 - educating staff and contractors about quiet work practices
 - informing neighbours of potentially noise activities in advance
 - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- b. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

Additional Information

- To confirm the date upon which this consent becomes effective, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979*. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- To confirm the likelihood of consent lapsing, refer to Section 95 of the Act. Generally consent lapses if the development is not commenced within five (5) years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- Section 82A allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.
- Under Section 97 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.

Should you have any further queries please contact Marta M Gonzalez-Valdes on 9562 1666

Luis Melim
Manager - Development Services

PRELIMINARY ASSESSMENT

DA No:	DA-2017/125
Date Plans Rec'd	11 October 2016
Address:	195 The Grand Parade, Monterey (Fronting 148 The Grand Parade)
Proposal:	Replacement of existing bus shelter advertising panel with new digital advertising panel.
Constraints Identified:	Nil
Zoning:	SP2 – Infrastructure

SEPP 64 – Advertising and Signage	Proposal	Compliance
<p>Cl. 3 Aims, objectives etc.</p> <p>(1) This Policy aims:</p> <p>(a) to ensure that signage (including advertising):</p> <p>(i) is compatible with the desired amenity and visual character of an area, and</p>	<p>The proposal will simply replace an existing scrolling poster bus shelter advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel. This is considered to provide a modern upgrade for the advertisement which is compatible with the desired amenity and visual character of the Monterey area.</p>	<p>Yes</p>
<p>(ii) provides effective communication in suitable locations, and</p>	<p>The proposed digital advertising panel is located on the side of a bus shelter which provides for an effective and efficient means of communication and given it is adjacent to a classified road it is considered to be a suitable location.</p>	<p>Yes</p>
<p>(iii) is of high quality design and finish, and</p>	<p>The proposed modern digital advertising panel is considered to be of high quality design and finish.</p>	<p>Yes</p>
<p>(b) to regulate signage (but not content) under Part 4 of the Act, and</p>	<p>Noted. The proposal is for the advertising panel itself and not for the future content of advertising on the panel.</p>	<p>Yes</p>
<p>(c) to provide time-limited consents for the display of certain advertisements, and</p>	<p>Noted.</p>	<p>Yes</p>

SEPP 64 – Advertising and Signage	Proposal	Compliance
(d) to regulate the display of advertisements in transport corridors, and	Noted.	Yes
(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.	The proposal does not trigger requirements for public benefits.	N/A
<p>Cl. 9 Advertisements to which this Part applies</p> <p>This Part applies to all signage to which this Policy applies, other than the following:</p> <p>(a) business identification signs,</p> <p>(b) building identification signs,</p> <p>(c) signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it,</p> <p>(d) signage on vehicles.</p>	<p>The proposed development meets the definition of 'signage' under the provisions of SEPP 64. This is because the proposed sign constitutes 'advertisements' to which Part 3 of SEPP 64 applies.</p> <p>In accordance with Clause 9, the proposed development is considered to be an 'advertisement' (which is a type of signage) and an 'advertising structure' as it is not a business identification sign, building identification sign, signage that is exempt development, or signage on vehicles.</p> <p>Therefore, Part 3 of SEPP 64 applies.</p>	Yes
<p>Cl. 10 Prohibited advertisements</p> <p>Despite the provisions of any other environmental planning instrument, the display of an advertisement is prohibited on land that, under an environmental planning instrument, is within any of the following zones or descriptions:</p> <p>environmentally sensitive area heritage area (excluding railway stations) natural or other conservation area open space waterway residential (but not including a mixed residential and business zone, or similar zones) scenic protection area national park nature reserve</p>	<p>The proposed bus stop advertisement is located on land zone SP2 – Infrastructure which is not a listed zone. Accordingly, the development is not prohibited under this clause.</p>	Yes
<p>Cl. 12 Consent Authority</p> <p>For the purposes of this Policy, the consent authority is:</p> <p>(a) the council of a local government area in the case of an advertisement</p>	<p>The proposed advertisement is to be located in the Bayside Local Government Area and Cl. 12(c), (d), or (e) do not apply. Therefore, Bayside Council is the consent</p>	N/A

SEPP 64 – Advertising and Signage	Proposal	Compliance
<p>displayed in the local government area (unless paragraph (c), (d) or (e) applies), or</p> <p>(b) the Maritime Authority of NSW in the case of an advertisement displayed on a vessel, or</p> <p>(c) the Minister for Planning in the case of an advertisement displayed by or on behalf of RailCorp on a railway corridor, or</p> <p>(d) the Minister for Planning in the case of an advertisement displayed by or on behalf of the RTA on:</p> <p>(i) a road that is a freeway or tollway (under the Roads Act 1993) or associated road use land that is adjacent to such a road, or</p> <p>(ii) a bridge constructed by or on behalf of the RTA on any road corridor, or</p> <p>(iii) land that is owned, occupied or managed by the RTA, or</p> <p>(e) the Minister for Planning in the case of an advertisement displayed on transport corridor land comprising a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M4 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel, or associated road use land that is adjacent to such a road.</p>	<p>authority.</p>	
<p>Cl. 13 Matters for consideration</p> <p>(1) A consent authority (other than in a case to which subclause (2) applies) must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:</p> <p>(a) is consistent with the objectives of this Policy, and</p> <p>(b) assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and</p>	<p>As detailed above, the proposal is consistent with the objectives of this policy.</p> <p>As detailed below, the proposal has been assessed in accordance with the assessment criteria in Schedule 1 and the proposal is acceptable in terms of its impacts.</p>	<p>Yes</p> <p>Yes</p>

SEPP 64 – Advertising and Signage	Proposal	Compliance
(c) satisfies any other relevant requirements of this Policy	As detailed in this table, the proposal satisfies the relevant requirements of this policy. It is noted that the <i>Draft transport corridor outdoor advertising and signage guidelines</i> have been considered although it is not a matter for consideration for the subject proposal, and the proposal is considered to satisfy the relevant provisions of that document.	Yes
<p>Cl. 14 Duration of consents</p> <p>Consent granted under this part ceases 15 years after date consent becomes effective, or a lesser period specified on the consent. May only specify less than 15 years if before the commencement of the SEPP the consent authority has adopted a policy for less than 15 years OR the area is undergoing change in accordance with an EPI to change nature of area</p>	<p>In accordance with this clause, any consent granted for this Development Application must include a condition that the consent will expire 15 years after the date on which the consent becomes effective and operates.</p> <p>It is noted that the Bayside Council had not adopted any policy to reduce the 15 year expiration time prior to the commencement of the SEPP and the area is not undergoing change in accordance with an EPI to change the nature of the area.</p>	Condition
<p>Cl. 20 Location of certain names and logos</p> <p>Name or logo of person who owns or leases an advertisement or structure may appear only within the advertising display area. If no borders or surrounds, the name or logo must be within the advertisement or within a strip below the advertisement that extends the full width.</p>	Insufficient information has been provided to determine the location and size of the name/logo of the owner/leaser of the proposed advertisement. It is recommended a condition of consent is included that stipulates the required location and maximum size of the name/logo of the owner/leaser.	Condition
The area of the name or logo must not be greater than 0.25sqm and this area is to be included in calculating the size of the display area.	As above.	Condition
Schedule 1 – Assessment Criteria		
1 Character of the area		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposal replaces an existing bus shelter advertising panel with a new digital advertising panel in the same location and of the same size and dimensions. Accordingly, the proposal maintains the existing character and is therefore considered compatible.	Yes

SEPP 64 – Advertising and Signage	Proposal	Compliance
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposal is consistent with bus shelter advertising in the locality and across the Sydney region.	Yes
2 Special Area		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal will simply replace an existing bus stop advertising panel with a new digital panel. The bus stop is located on a main road and therefore proposed advertising panel is consistent with the surroundings and will not detract from sensitive areas.	Yes
3 Views and Vistas		
Does the proposal obscure or compromise important views?	The proposal will simply replace an existing bus stop advertising panel with a new digital panel and as such view lines will remain as existing.	Yes
Does the proposal dominate the skyline and reduce the quality of vistas?	As above.	Yes
Does the proposal respect the viewing rights of other advertisers?	As above.	Yes
4 Streetscape, setting or landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed digital advertising panel is the same as the panel it will replace. This scale, proportion and form is consistent with typical bus shelter advertising in the streetscape.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal will provide a modern digital advertising panel replacing an older style scrolling panel. The modern panel is considered to contribute to visual interest in the streetscape.	Yes
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal will provide a modern digital advertising panel replacing an older style scrolling panel. The modern panel is considered to simplify the existing advertising as it will not require ongoing physical poster replacements.	Yes
Does the proposal screen unsightliness?	The proposal provides a high quality finish to the bus shelter which adds visual interest to an unsightly bus shelter.	Yes

SEPP 64 – Advertising and Signage	Proposal	Compliance
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposal does not protrude above buildings, structures or tree canopies in the locality with a maximum height of 2.492m above ground level.	Yes
Does the proposal require ongoing vegetation management?	The proposal is located in a bus shelter on hard paving which is not surrounded by vegetation and as such ongoing vegetation management is not required.	Yes
5 Site and building		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed advertising is fully integrated into the design of the bus shelter, forming the side wall. It is therefore considered compatible.	Yes
Does the proposal respect important features of the site or building, or both?	The proposed advertising is fully integrated into the design of the bus shelter, forming the side wall. It is therefore considered to respect the important features of the bus shelter.	Yes
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposal is considered to show innovation in that it is a modern digital advertising structure that is fully integrated into the existing bus shelter.	Yes
6 Associated devices and logos with advertisements and advertising structures		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as well as ambient lighting.	Yes
7 Illumination		
Would illumination result in unacceptable glare?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as well as ambient lighting.	Yes
Would illumination affect safety for pedestrians, vehicles or aircraft?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as	Yes

SEPP 64 – Advertising and Signage	Proposal	Compliance
	well as ambient lighting.	
Would illumination detract from the amenity of any residence or other form of accommodation?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as well as ambient lighting. Accordingly, it is considered that the illumination is acceptable and will not detract from residences.	Yes
Can the intensity of the illumination be adjusted, if necessary?	The proposed digital advertising panel has adjustable intensity of illumination.	Yes
Is the illumination subject to a curfew?	There is no curfew for illumination at this location.	Yes
8 Safety		
Would the proposal reduce the safety for any public road?	The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. Accordingly, the advertising is will maintain the existing safety situation.	Yes
Would the proposal reduce the safety for pedestrians or bicyclists?	The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. Accordingly, the advertising is will maintain the existing safety situation.	Yes
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. Accordingly, the advertising is will maintain the existing safety situation.	Yes

Draft Transport Corridor Outdoor Advertising and Signage Guidelines	Proposal	Compliance
2.5.8 Digital Signs – Criteria – Signs less than 20m²	The proposed digital advertising panel has an area of 2m ² on each side for a total of 4m ² . Therefore, the below controls are considered relevant.	
a) Each advertisement must be displayed in a completely static manner, without any motion, for the approved dwell time as per criterion (d) below.	The submitted SEE notes that the advertisement will be displayed in a static manner and for the approved dwell time. It is recommended a condition of consent is included that ensures compliance.	Condition
(b) Message sequencing designed to	Insufficient information has been	Condition

Draft Transport Corridor Outdoor Advertising and Signage Guidelines	Proposal	Compliance
make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.	submitted to determine compliance. This is considered appropriate to be resolved via a condition.	
(c) The image must not be capable of being mistaken: (i) For a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device, or (ii) as text providing driving instructions to drivers.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition. Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition Condition
(d) Dwell times for image display are: (i) 10 seconds for areas where the speed limit is below 80km/h. (ii) 25 seconds for areas where the speed limit is 80km/h and over.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition. The speed limit along this section of The Grand Parade is not 80km/h and over.	Condition N/A
(e) The transition time between messages must be no longer than 0.1 seconds.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition
(f) Luminance levels must comply with the requirements in Table 3 below.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition
(g) The images displayed on the sign must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Yes Condition
(h) The amount of text and information supplied on a sign should be kept to a minimum (for example no more than a driver can read at a short glance). Text should preferably be displayed in the same font and size. Table 6 in Section 3 of these Guidelines provides further guidance.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition

Draft Transport Corridor Outdoor Advertising and Signage Guidelines	Proposal	Compliance
(i) Any sign that is within 250 metres of a classified road and is visible from a school zone must be switched to a fixed display during school zone hours.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition
(j) Each sign proposal must be assessed on a case by case basis including replacement of an existing fixed, scrolling or tri-vision sign with a digital sign and in the instance of a sign being visible from each direction, both directions for each location must be assessed on their own merits.	The proposal to replace an existing scrolling sign with a digital sign has been assessed on its own merits and is considered acceptable.	Yes
(k) At any time, including where the speed limit in the area of the sign is changed, if detrimental effect is identified on road safety post installation of a digital sign, RMS reserves the right to re-assess the site which may result in a change to the dwell time or removal of the sign.	This is considered acceptable to be conditioned.	Condition

ROCKDALE LEP 2011	PROPOSAL	Compliance
4.3(2) Height of buildings		
• N/A	2.492m	N/A
4.4(2) Floor space ratio		
• N/A	The proposal is for advertising which is not included in GFA and therefore there is no FSR.	N/A

ROCKDALE DCP 2011	Proposal	Compliance
6.4 Advertising and Signage		
Inappropriate Sign Types		
1) The erection of the following types of signs is not permitted: a) flashing, moving or video signs b) signs other than building identification signs above the awning in a Commercial zone; c) a sign erected on or above the	The proposal is for the replacement of an existing bus shelter advertising panel with a new digital advertising panel that is not any of the listed signage types.	Yes

ROCKDALE DCP 2011	Proposal	Compliance
<p>parapet of a building, other than a building identification sign;</p> <p>d) a sign attached to a building and capable of movement;</p> <p>e) Projecting wall sign (attached to a wall and projecting horizontally more than 300mm).</p>		
Streetscape and Amenity		
2) Any signage proposed within an open space or infrastructure zone will be assessed on its merit, with consideration including the effect on the amenity of adjacent residential properties.	The proposed advertising panel is located within an infrastructure zone and has been assessed on its merits with consideration being had for the effect on the amenity of the adjacent residential properties. The digital panel will be oriented towards the road users and as such will not face adjacent residential properties.	Yes
3) In order to protect the amenity of residential uses adjoining commercial area, advertising in commercial zones are not permitted on walls or structures facing adjoining residential zones.	The proposed advertising is not located in a commercial zone.	N/A
4) In circumstances where the amenity of nearby residential areas will not be detrimentally affected, illumination may be permitted.	The proposed advertising panel utilised an LCD display which is considered a form of illumination. This is considered acceptable given the character of the area being a classified road where the ambient illumination of the area will be minimally affected by the panel. Furthermore, the panel will not be facing any residential properties.	Yes
5) Electrical conduits to illuminated signs are to be taken directly into the building or otherwise screened to the satisfaction of Council.	Insufficient details have been provided to determine the electrical conduit arrangement that is proposed.	Condition
6) The size, scale and number of advertisements and advertising structures respond to their context, and integrate with the streetscape rather than dominating it.	The proposed advertising is fully integrated into the design of the bus shelter, forming the side wall. It is therefore considered to respond to the context and integrate into the bus shelter and the streetscape.	Yes
7) The colours used in the design of an advertising sign or structure must complement the colour finish of the building to which it will be attached.	The proposed digital advertising panel will have a black frame which is considered a neutral colour that will complement the bus shelter.	Yes

ROCKDALE DCP 2011	Proposal	Compliance
8) Corporate colours should be limited to the advertising sign or structure, and should not be applied to the painted surface of the building.	No corporate colours are proposed to be applied to the painted bus shelter.	Yes
9) Advertising should not impact upon natural features and any trimming or lopping of significant trees should be avoided at all times. Where this is absolutely necessary details of the extent of the lopping and identification of the specific trees will be required with the application.	The proposed digital advertising panel will simply replace the existing advertising panel and will not impact any natural features.	Yes
Size		
10) The maximum advertising area for:		
a) Commercial zones is 0.5m ² of advertising area per 1m of shopfront;	The proposed advertising panel is not located in a commercial zone.	N/A
b) Enterprise Corridor and Industrial zone is 1m ² of advertising area per 3m of street frontage.	The proposed advertising panel is not located in an enterprise corridor or industrial zone.	N/A
11) Signs must be of a size and proportion which complements the scale and proportion of the existing facade, as well as surrounding buildings and signs.	The scale, proportion and form of the proposed digital advertising panel is the same as the panel it will replace. This scale, proportion and form is consistent with typical bus shelter advertising in the streetscape.	Yes
12) Health Consulting Rooms in a residential zone are permitted a single advertisement located wholly within the boundary of the subject property and with a maximum size of 0.75 m ² .	The proposal does not relate to a Health Consulting Room.	N/A
Design		
13) A signage strategy is to be submitted with a development application for any building that requires advertising or signage and must include details of the location, type, construction and total number and size of signs on the building/site.	The proposed development is to replace an existing bus shelter advertising panel with a new digital advertising panel in the same location and of the same size and dimensions. Given the similarity to the existing advertising, a signage strategy is not considered necessary and it has not been submitted with the development application.	Yes
14) Where a building or site contains multiple tenancies or uses, a coordinated approach for all signs is	The bus shelter where the advertising is proposed to be located does not contain multiple tenancies or uses.	N/A

ROCKDALE DCP 2011	Proposal	Compliance
required.		
15) All advertisements in a foreign language must contain a legible English equivalent.	The proposed development is for the advertising panel and not the future content of the advertisements.	N/A
16) Advertising structures are to form an integrated part of the facade of buildings and must reinforce architectural elements and design.	The proposed advertising panel is fully integrated into the design of the bus shelter, forming the side wall.	Yes
17) Signage must not obscure decorative forms or mouldings and must observe a reasonable separation distance from the lines of windows, doors, parapets, piers, and the like.	The proposed advertising panel is fully integrated into the design of the bus shelter, forming the side wall.	Yes
18) Materials used must be durable, fade and corrosion proof and of a high aesthetic quality.	The proposed digital advertising panel has a high aesthetic quality and the materials are considered to be appropriate for durability.	Yes
Impact on Heritage Significance		
19) Advertising proposed for heritage items must have regard to its heritage significance and must complement the item. The architectural characteristics of a building should always dominate.	The proposed advertising panel is not located on a heritage item.	N/A
20) Signs on buildings or in areas of heritage significance must not by their size, design or colour detract from the character or significant qualities of individual buildings, their immediate context or the wider streetscape context of the area.	The proposed advertising panel will be located opposite to a heritage item (I168) known as Cook Park which is of local significance. The digital advertising panel provides an upgrade to the existing panel it will replace which is considered to be an improvement to the heritage values of the adjacent park.	Yes
21) Historic signs may have their own significance and must not be obscured or diminished by later signage.	The existing advertising panel to be replaced is a typical scrolling poster bus shelter panel which is not considered to be of any historic significance.	Yes
Safety		
22) Advertising signs and their supporting structures must not be: a) hazardous to passers-by;	The proposed advertising panel will not be a hazard to passers-by, rather it will improve safety as it replaces an	Yes

ROCKDALE DCP 2011	Proposal	Compliance
b) located so as to be hazardous for traffic safety and must not obscure a driver's or pedestrian's view of road or rail vehicles, pedestrians or features of the road, railway or footpath (e.g. junctions, bends, changes in width);	older panel with a modern digital panel. The proposal will replace an existing advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel. It is not considered to be inappropriately located.	Yes
c) so highly illuminated that they cause discomfort to, or inhibit vision of drivers or pedestrians;	It is recommended a condition is imposed that requires compliance with the Digital Advertising Criteria from the <i>Draft Transport Corridor Outdoor Advertising and Signage Guidelines</i> which contains provisions relating to illumination.	Condition
d) mistaken as an official traffic sign and must not distract a drivers attention or be confused with instructions given by traffic signals.	Given the prevalence of bus shelter advertising panels and that the panel is fully integrated into the bus shelter, it is considered unlikely that the advertising panel will be mistaken as an official traffic sign.	Yes

Summary of Issues/Non compliances:

Resolved via condition

- SEPP 64 *Draft Transport Corridor Outdoor Advertising and Signage Guidelines* – The draft guidelines contain specific digital advertising criteria. These relate to technical details of illuminance levels, dwell times of advertisements etc. that are unreasonable to request at Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria from the draft guidelines.
- SEPP 64 Expiration of Consent – Clause 14 requires that consents granted under the SEPP expire 15 years after the date the consent becomes effective and operates. Accordingly, it is recommended that a condition is imposed that expires the consent after 15 years.
- SEPP 64 Name/logo location and size – Clause 20 contains requirements for the location and size of the name or logo of the person who owns or leases the advertisement. Insufficient details have been provided to determine compliance and as such it is recommended a condition is imposed requiring compliance.
- RDCP2011 Electrical conduits - Control 5 of Part 6.4 requires that electrical conduits of illuminated signs be taken directly into the building or otherwise


screened to the satisfaction of Council. Insufficient details have been provided of the proposed electrical arrangement for the digital advertising panel to determine compliance and as such it is recommended a condition is imposed requiring compliance.

Certification

I certify that all of the above issues have been accurately and professionally examined by me.

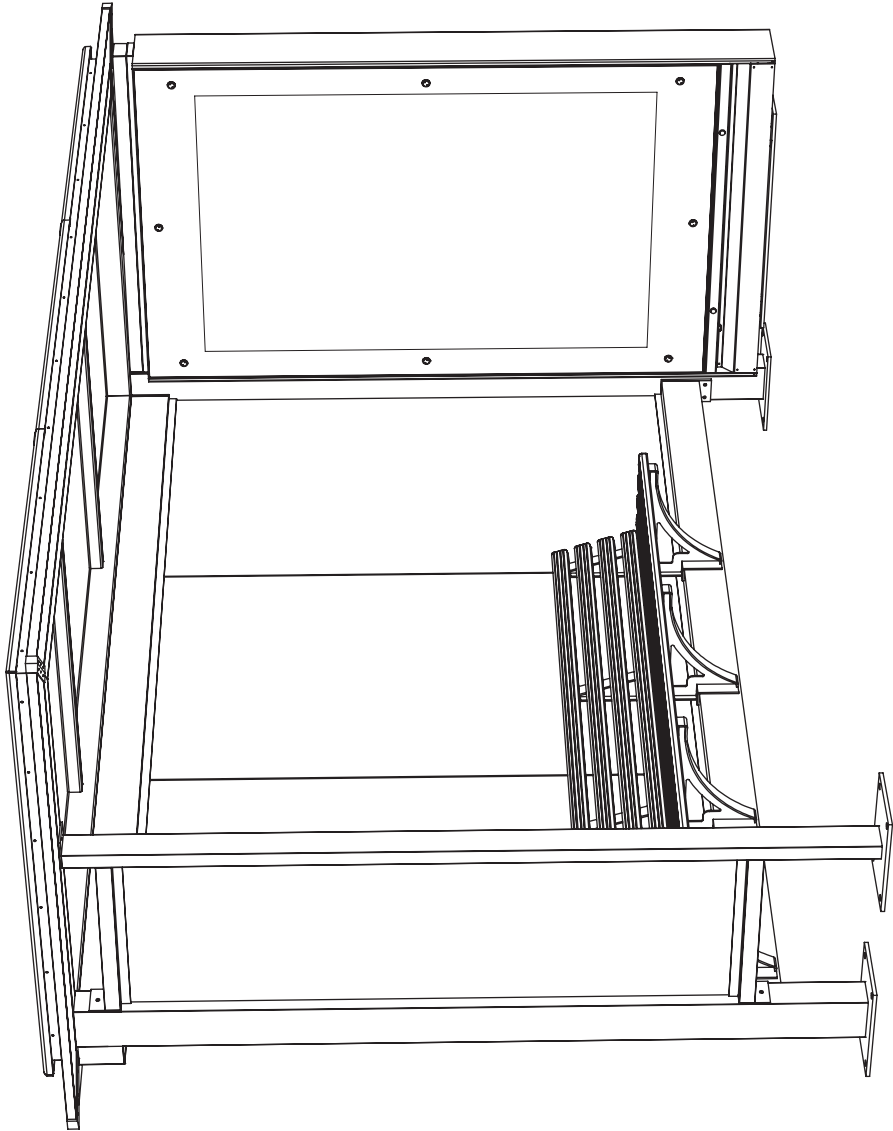
Name James Arnold.

Signature

A handwritten signature in black ink, appearing to read 'James Arnold', written in a cursive style.

Date 23 January 2017

GENERAL ASSEMBLY DRAWING



FRONT ELEVATION

UNLESS OTHERWISE SPECIFIED: DIMENSIONS ARE IN MILLIMETERS = XX = INDICATES DIMENSION SYMMETRIC ABOUT CENTRELINE	TOLERANCES: LINEAR: ± 0.5mm ANGULAR: ± 0.5° 	DRAWN: NJN	DATE: 24-02-2016	TITLE: Metro Ad (Mains) Digital (R-Box)	DRAWING NO: C-010-100172-01			
		REVISION: -	DATE: -					
		CAD GENERATED DRAWING DO NOT MANUALLY UPDATE DO NOT SCALE DRAWING	CHECKED: -			DATE: -	DRAWING TYPE: Layout Drawing	MATERIAL: -
ADSHEL 17 Rocklea Drive Port Melbourne VIC 3207 t: (+613) 9921 9600 f: (+613) 9921 9681								

7 Drawings

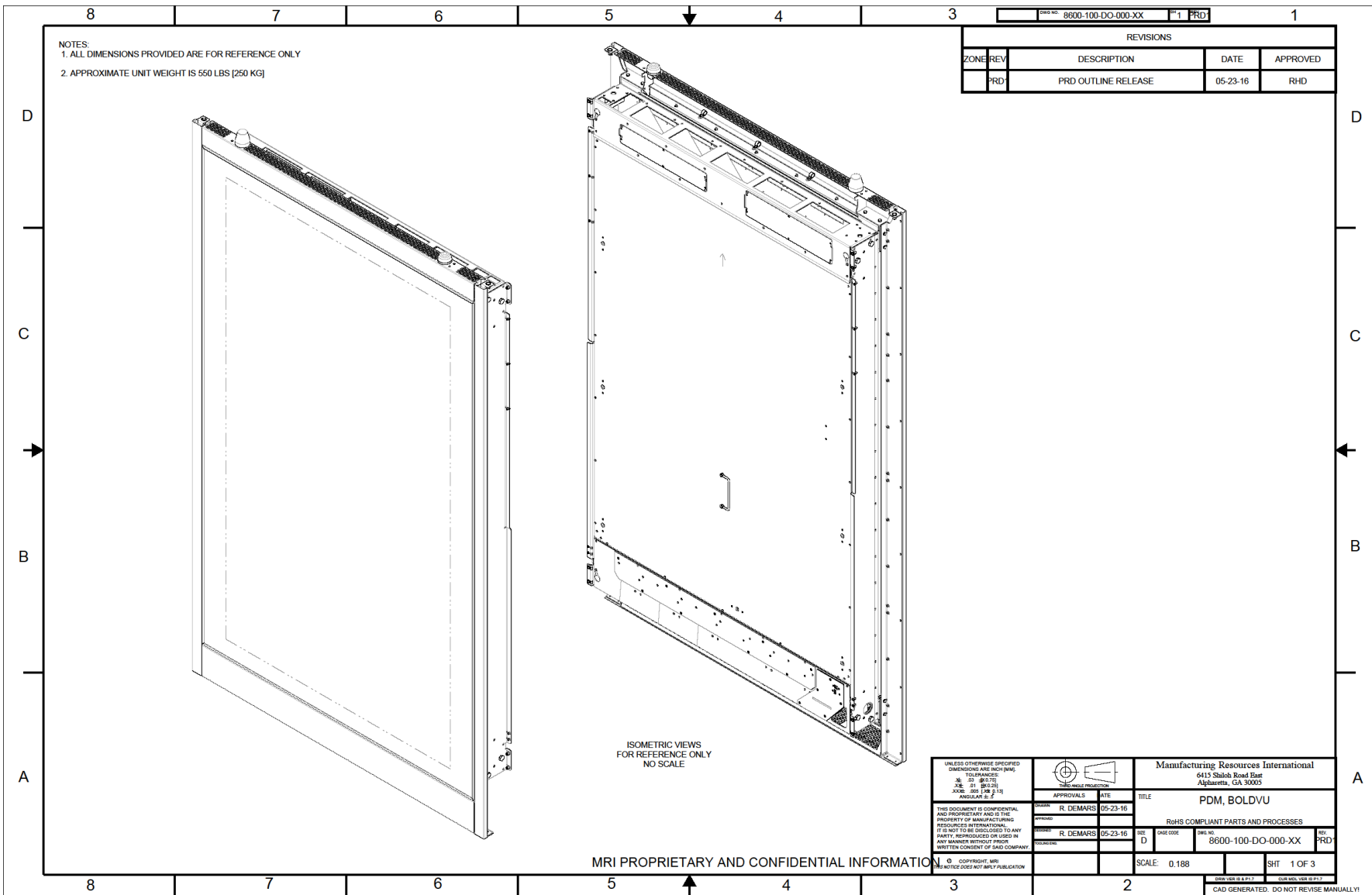
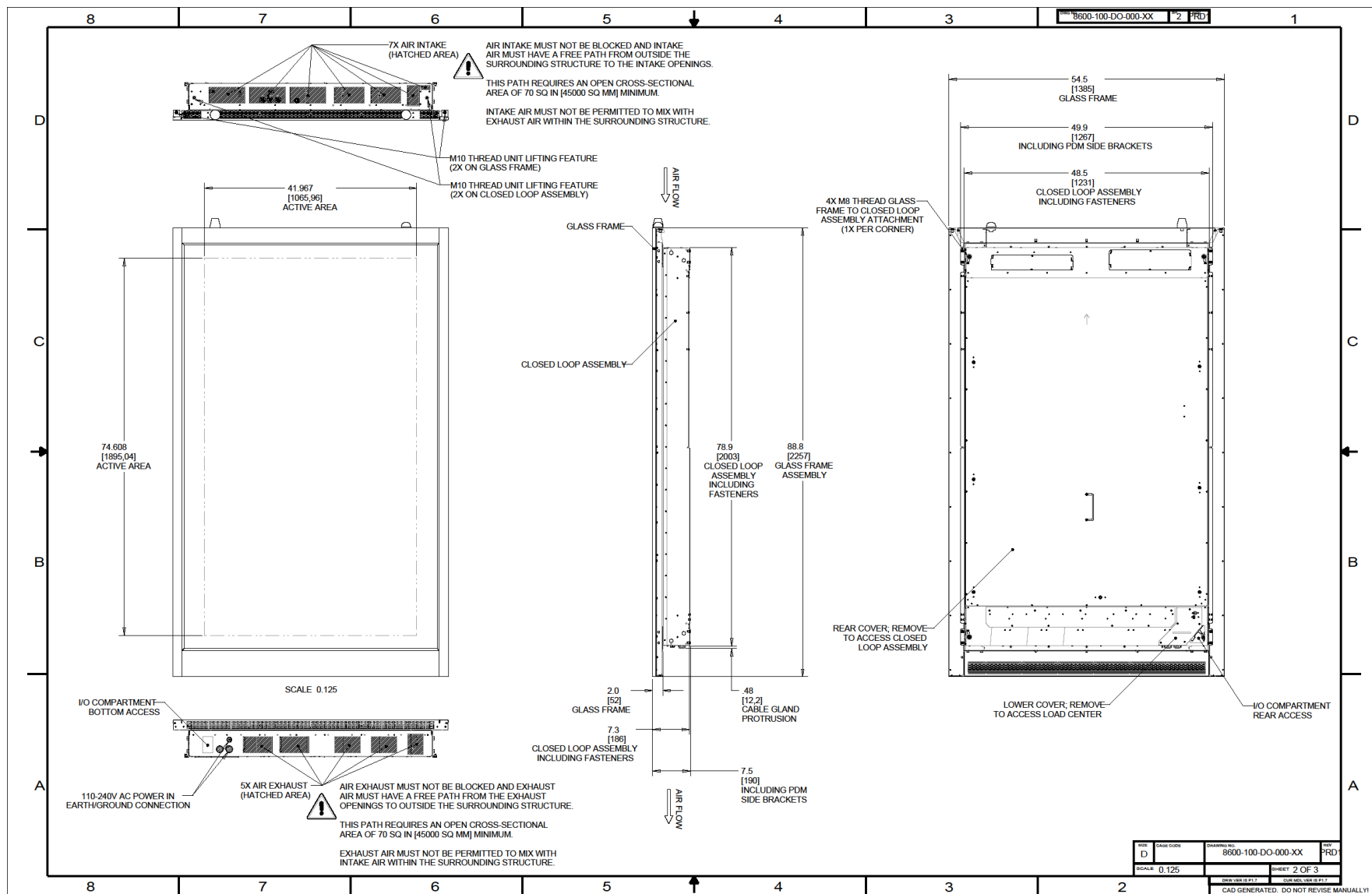


Figure 1. Outline drawing (1 of 3)



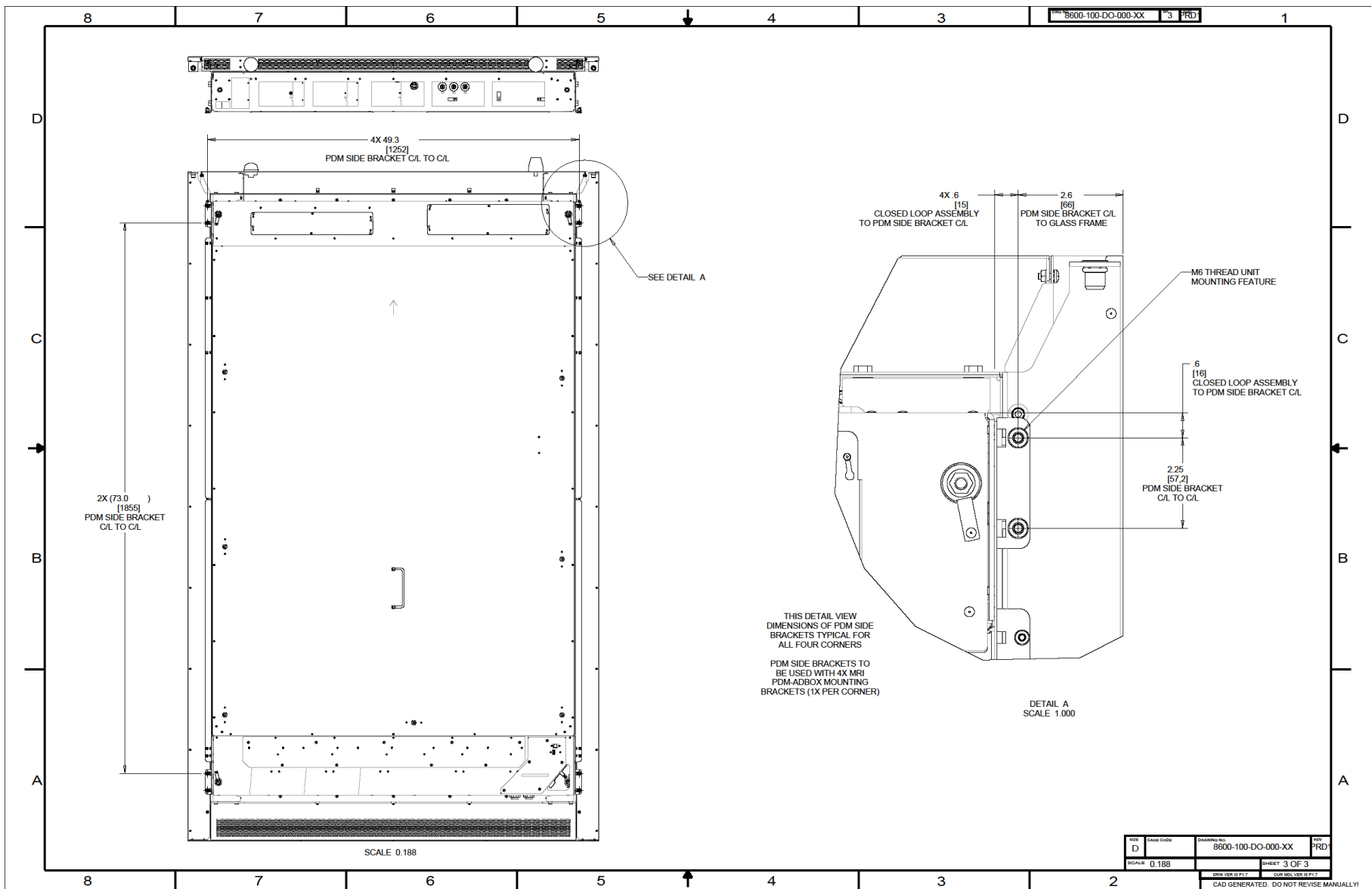


Figure 3. Outline drawing (3 of 3)

Council Meeting

8/03/2017

Item No	9.14
Property	ROAD 194 The Grand Parade Ramsgate Beach (Opposite 209 The Grand Parade)
Proposal	Replacement of existing bus shelter advertising panel with new digital advertising panel
Cost of Development	\$5000
Report by	Creative Planning Solutions Pty Ltd
Application No	DA-2017/126

Council Resolution

Minute 2017/038

Resolved by the Administrator:

That Development Application No. 2017/126 which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 194 The Grand Parade, Ramsgate Beach (Opposite 209 The Grand Parade) be APPROVED pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the attached conditions of consent.

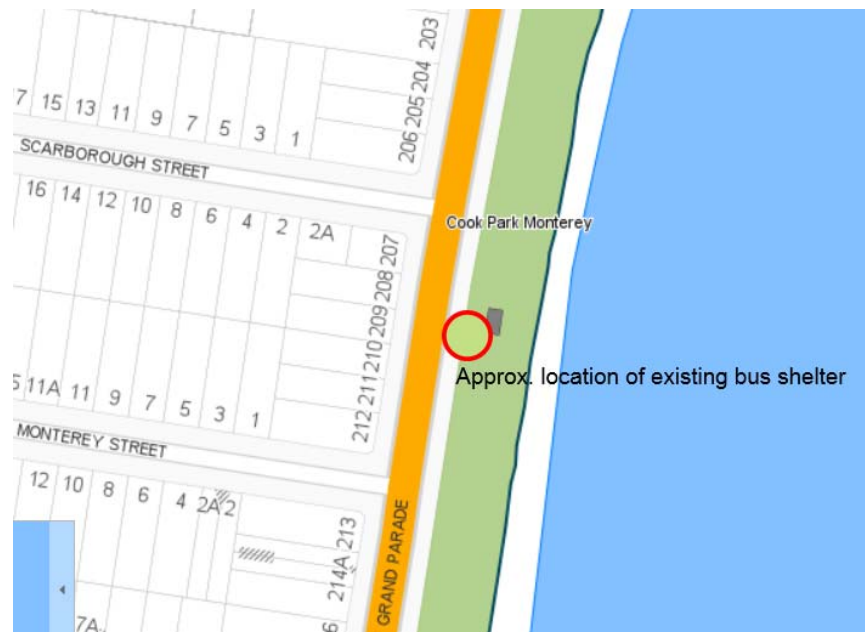
Officer Recommendation

That Development Application No. 2017/126 which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 194 The Grand Parade, Ramsgate Beach (Opposite 209 The Grand Parade) be APPROVED pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the attached conditions of consent.

Attachments

1. Planning Assessment Report
 2. Draft Notice of Determination
 3. Compliance Checklist
 4. Bus Shelter Drawing
 5. Advertising Panel Drawing
-

Location Plan



BAYSIDE COUNCIL

COUNCIL REPORT

1. APPLICATION DETAILS

Property:	ROAD 194 The Grand Parade, Ramsgate Beach (Opposite 209 The Grand Parade) NSW 2217
Proposal:	Replacement of existing bus shelter advertising panel with new digital advertising panel.
Date Lodged:	11 October 2016
File Number:	DA-2017/126
Owner:	Bayside Council
Author:	James Arnold – Creative Planning Solutions Pty Limited
Coordinator:	Marta Gonzalez-Valdes – Coordinator Major Assessment Team

2. REPORT SUMMARY

This report considers a Development Application (DA) which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 194 The Grand Parade, Ramsgate Beach (Opposite 209 The Grand Parade).

No significant issues were identified in the assessment and some minor issues have been resolved via conditions of consent which are discussed as follows:

- SEPP 64 *Draft Transport Corridor Outdoor Advertising and Signage Guidelines* – The draft guidelines contain specific criteria for digital advertising. These criteria relate to technical details of illuminance levels, dwell times of advertisements etc. that are unreasonable to request at the Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria from the draft guidelines.
- SEPP 64 Expiration of Consent – Clause 14 requires that consents granted under the SEPP expire 15 years after the date the consent becomes effective and operates. Accordingly, it is recommended that a condition is imposed that expires the consent after 15 years.
- SEPP 64 Name/logo location and size – Clause 20 contains requirements for the location and size of the name or logo of the person who owns or leases the advertisement. Insufficient details have been provided to determine compliance and as such it is recommended a condition is imposed requiring compliance.

- RDCP2011 Electrical conduits – Part 6.4 Control 5 requires that electrical conduits of illuminated signs be taken directly into the building or otherwise screened to the satisfaction of Council. Insufficient details have been provided of the proposed electrical arrangement for the digital advertising panel to determine compliance and as such it is recommended a condition is imposed requiring compliance.

Having regard to the matters for consideration in Section 79C(1) of the Environmental Planning and Assessment Act 1979 (the Act), the following has been determined:

- When assessed against the relevant environmental planning instruments pertaining to the proposed development, including the State Environmental Planning Policy No. 64 – Advertising and Signage and the Rockdale Local Environmental Plan 2011, the proposal satisfactorily complies with the applicable objectives and provisions;
- When assessed against the relevant provisions of the Rockdale Development Control Plan 2011, the proposal complies with the relevant development controls. Where non-compliances with development controls have been identified, these are considered to be satisfactorily justifiable;
- The likely impacts of the proposed development have been considered and determined to be minimal and be satisfactory;
- The site is considered suitable for the proposed development; and,
- Having regard for the level of compliance with the applicable planning controls, the proposed development is considered to be in the public interest.

3. RECOMMENDATION

That Development Application No. 2017/126 which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 194 The Grand Parade, Ramsgate Beach (Opposite 209 The Grand Parade) be APPROVED pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the attached conditions of consent.

4. BACKGROUND

The subject DA was lodged with Council on 11 October 2016. The DA was notified to the public from 21 October 2016 to 8 November 2016. No submissions were received.

A review of the subject site's development history using Council's online Development Application search returned with no results. This suggests that the subject site has not been subject to any works requiring Council approval since 1 July 2004, since the ePlanning portal applies to applications submitted after 1 July 2004.

5. PROPOSAL

Council is in receipt of Development Application DA-2017/126 at 194 The Grand Parade, Ramsgate Beach (Opposite 209 The Grand Parade) which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel.

Details of the proposed development are as follows:

- Remove the existing static-scrolling poster advertising panel,
- Install a LED digital advertising panel where the existing panel is located. The new panel has the following specifications:
 - Two sided,
 - 1895mm x 1065mm dimensions,
 - 2m² each side of panel,
 - Maximum height of 2.492m above the footpath level.

The submitted Statement of Environmental Effects provides the following additional details about the proposed advertising panel:

The advertisements will be on a 10 second dwell time with instantaneous transitioning between advertisements. No animation or dynamic digital display is proposed... The panel has been designed to adopt the national guidelines for digital display illumination, brightness, and transition timeframes, taking into account day/night time transitions, as well as ambient lighting.

6. EXISTING AND SURROUNDING USES

The subject site is the road reservation of The Grand Parade. The address of the subject site is 194 The Grand Parade, Ramsgate Beach, and the bus shelter where the proposed advertising is to be located is opposite 209 The Grand Parade, Monterey on the eastern side of the road between the intersections with Scarborough Street and Monterey Street.

The Grand Parade is a classified road that runs north-south along Botany Bay from Dolls Point in the south to Brighton Le Sands in the north. The Grand Parade is a four to six lane road with travel lanes in both directions and parking lanes along portions of the road. Adjacent to the bus shelter are two travel lanes in each direction and no parking lanes.

The bus shelter which the proposed advertising panel will be installed on, is a typical Sydney bus shelter with one open side to the street. The bus shelter is constructed with metal posts with a glass back and side, an advertising panel on the other side, and a flat metal roof. The bus shelter sits on the concrete footpath. The existing advertising panel is two sided and contains static-scrolling poster advertisements.

In the immediate surrounds of the bus shelter is a mature pine tree, grassed areas, a shared pedestrian and bike path, a toilet and changing block, and Ramsgate Beach. The locality is characterised by the natural features of Cook Park and the beach on the eastern side of The Grand Parade and low density one and two storey dwelling houses on the western side of The Grand Parade.



Figure 1: Location of bus shelter where the digital advertising panel is proposed circled in red
(Source: nearmap.com.au)



Figure 2: Bus Shelter and existing advertising panel to be replaced looking south
(Source: CPS, 2016)

7. REFERRALS

7.1. EXTERNAL

The Development Application was referred to the following external authorities:

- Roads and Maritime Services (RMS) – The development application was referred to the RMS on 20 October 2016 and a response was received on 17 November 2016. The response stated that the development application was not required to be referred to the RMS and as such no comment was provided.
- State Transit Authority (STA) – The development application was referred to STA and a response was received on 11 November 2016. The response stated that no objection was raised to the works however STA requested notification when the works will be carried out and if the requirement to close the bus stop during the construction is required. These requests are recommended to be imposed as conditions of consent.

7.2. INTERNAL

The Development Application was not referred to any internal departments:

8. PLANNING CONSIDERATIONS - SECTION 79C OF THE EP&A ACT 1979

The following is an assessment of the proposed development under the provisions of Section 79C(1) of the *Environmental and Planning Assessment Act 1979* (the Act).

8.1 PROVISIONS OF ENVIRONMENTAL PLANNING INSTRUMENTS (S.79C(1)(a)(i))

8.1.1 *State Environmental Planning Policy No. 64 – Advertising and Signage*

Clause 6 – Signage to which this policy applies

SEPP 64 is considered to apply to the proposed development which is discussed below.

The proposed development meets the definition of ‘signage’ under the provisions of SEPP 64. This is because the proposed sign constitutes an ‘advertisements’ to which Part 3 of SEPP 64 applies.

In accordance with Clause 9, the proposed development is considered to be an ‘advertisement’ (which is a type of signage) and an ‘advertising structure’ as it is not a business identification sign, building identification sign, signage that is exempt development, or signage on vehicles. The relevant definitions from the SEPP are provided below.

advertisement means *signage to which Part 3 applies and includes any advertising structure for the advertisement.*

Note. Part 3 applies to all signage other than business identification signs, building identification signs, signage that is exempt development, or signage on vehicles

advertising structure means a structure or vessel that is principally designed for, or that is used for, the display of an advertisement.

Clause 6 of SEPP 64 outlines the following with regard to signage to which SEPP 64 applies:

(1) *This Policy applies to all signage:*

- a) *that, under another environmental planning instrument that applies to the signage, can be displayed with or without development consent, and*
- b) *is visible from any public place or public reserve,*

except as provided by this Policy.

Note. **Public place** and **public reserve** are defined in section 4 (1) of the Act to have the same meanings as in the Local Government Act 1993.

(2) *This Policy does not apply to signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it, or that is exempt development under this Policy.*

In accordance with Clause 6, SEPP 64 applies to the proposed development as it can be displayed with development consent under the RLEP2011 (refer to permissibility discussion under RLEP section of this report) and will be visible from a public place or public reserve.

It is noted that the proposal does not satisfy Clause 6(2) as the proposal is not considered to meet the exempt development provisions under other environmental planning instruments. The proposal is not identified as exempt development under RLEP2011, nor is it identified under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Furthermore, the proposal would not constitute exempt development under the provisions of *State Environmental Planning Policy (Infrastructure) 2007*.

Given the above, SEPP 64 is considered to apply to the proposed development and the following are the relevant provisions from the SEPP that have been taken into consideration:

Clause 3 – Aims, objectives etc

The proposed advertising panel is considered to be consistent with the aims of the SEPP for the following reasons:

- The proposal will replace an existing scrolling poster bus shelter advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel providing a modern upgrade which is compatible with the desired amenity and visual character of the Ramsgate Beach area.
- The advertising panel will be located on the side of a bus shelter which provides for an effective and efficient means of communication and given it is adjacent to a classified road it is considered to be a suitable location.

- The proposed modern digital advertising panel is considered to be of high quality design and finish.

Clause 10 – Prohibited advertisements

As discussed above, the proposed development is considered to be an ‘advertisement’ in accordance with the definitions contained within Clause 4 and the provisions of Clause 9. Clause 10 stipulates that the display of advertisements is prohibited in the following zones: environmentally sensitive area, heritage area, natural or other conservation area, open space, waterway, residential, scenic protection area, national park, and nature reserve.

The proposed bus stop advertisement is located on land zone SP2 – Infrastructure which is not a listed zone. Accordingly, the development is not prohibited under this clause.

Clause 12 – Consent Authority

The proposed advertisement is to be located in the Bayside Local Government Area and Cl. 12(c), (d), or (e) do not apply. Therefore, Bayside Council is the consent authority.

Clause 13 – Matters for consideration

The matters for consideration stipulated in Clause 13(1) are considered to apply to the subject proposal as Council is the consent authority and Clause 18 or 24 do not apply. Therefore, the matters for consideration for the subject Development Application are as follows:

a) is consistent with the objectives of this Policy, and

As discussed above, the proposal is considered to be consistent with the objectives of the SEPP.

b) assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and

The proposal has been assessed in accordance with the assessment criteria in Schedule 1 and is considered acceptable in terms of its impacts.

c) satisfies any other relevant requirements of this Policy

The proposal satisfies the other relevant requirements of the SEPP. It is noted that the, although not a matter for consideration for the proposal, the *Draft Transport Corridor Outdoor Advertising and Signage Guidelines* have been considered as it provides specific requirements for digital advertising. These criteria relate to technical details of illuminance levels, dwell times of advertisements etc. that are unreasonable to request at the Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria from the draft guidelines.

Clause 14 – Duration of consents

In accordance with this clause, any consent granted for this Development Application must expire 15 years after the date on which the consent becomes effective and operates.

It is noted that the Bayside Council had not adopted any policy to reduce the 15 year expiration time prior to the commencement of the SEPP and the area is not considered to be undergoing change in accordance with an EPI to change the nature of the area. Accordingly, the 15 year expiration clause applies and it is recommended a condition of consent to this effect is imposed.

Clause 20 – Location of certain names and logos

Insufficient information has been provided to determine the location and size of the name/logo of the owner/leaser of the proposed advertisement. It is recommended a condition of consent is included to ensure compliance with this clause.

8.1.2 Rockdale Local Environmental Plan 2011

The following are relevant matters from the LEP that have been taken into consideration.

Clause 2.1 – Land Use Zones

The Grand Parade road corridor is zoned SP2 – Infrastructure. Within the SP2 zone, development permitted with consent includes:

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.

The purpose shown on the Land Zoning Map where the advertising is proposed is ‘Classified Road’. Accordingly, the road and any development that is ordinarily incidental or ancillary to development for the purpose of a Classified Road is also permitted with consent. All other forms of development are identified as being prohibited within the SP2 zone, except that for the purposes of ‘roads’ which is permissible without consent.

The proposed development is considered to be for both an ‘advertisement’ and the associated ‘advertising structure’ on which the advertisement is to be displayed. The RLEP refers to the *Environmental Planning and Assessment Act 1979* for the relevant definitions which are as follows.

advertisement means a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

advertising structure means a structure used or to be used principally for the display of an advertisement.

Given the above, for the proposed advertisement/advertising structure to be permissible in the zone, it must be considered as *ordinarily incidental or ancillary* to a Classified Road.

It is considered that the provision for *ordinarily incidental* to development for a Classified Road would reasonably include a bus shelter advertising panel in the particular form proposed. The reason for this is the high prevalence of bus shelter advertisements in the particular form and scale that is proposed. That is, the advertising panel forms the side of the bus shelter and is fully integrated into and fundamental to the structure and functioning of the bus shelter as would be ordinarily found on many, if not most, bus shelters on Classified Roads across NSW. The fundamental aspect of what makes the proposed advertising panel *ordinarily incidental*, is that it takes the form of a bus shelter advertising panel that would be ordinarily encountered within a bus shelter on a Classified Road. Therefore, to provide further clarity, this argument would not apply to a bus shelter advertising panel which is not ordinarily encountered, such as if it protruded above the roof of the bus shelter.

Accordingly, it is considered the proposed advertising panel is permitted with consent in the zone.

Clause 4.3 – Height of Buildings

There is no maximum height of buildings specified for the subject site.

It is noted that the maximum height of the proposed advertising panel is 2.492m above the footpath level below.

Clause 4.4 – Floor Space Ratio

There is no maximum floor space ratio specified for the subject site.

It is noted that the proposed advertising panel does not constitute gross floor area and therefore does not have a floor space ratio.

Clause 5.9 – Preservation of trees or vegetation

Clause 5.9 of LEP2011 prescribes that a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by development consent, or a permit granted by the Council.

The proposed digital advertising panel will simply replace the existing advertising panel and will not impact any trees or vegetation.

Accordingly, the proposed development is considered to satisfy Clause 5.9.

Clause 5.10 Heritage Conservation

The proposed advertising panel will be located adjacent to a heritage item (I168) known as Cook Park which is of local significance. The digital advertising panel provides an upgrade to

the existing panel it will replace which is considered to be an improvement to the heritage values of the adjacent park.

Accordingly, there are no heritage concerns with the proposed development pursuant to Clause 5.10.

Clause 6.1 – Acid Sulfate Soils

The subject site has been identified as being affected by Acid Sulfate Soils (ASS) – Class 4. The proposal does not involve any significant disturbance of the soils that would trigger a requirement for an Acid Sulfate Soils Management Plan. Accordingly, the proposal satisfies Clause 6.1.

8.2 PROVISIONS OF ANY PROPOSED INSTRUMENT THAT IS OR HAS BEEN THE SUBJECT OF PUBLIC CONSULTATION UNDER THIS ACT AND THAT HAS BEEN NOTIFIED TO THE CONSENT AUTHORITY (S.79C(1)(a)(iii))

No draft environmental planning instruments have been identified that are relevant to the proposed development.

8.3 PROVISIONS OF DEVELOPMENT CONTROL PLANS (S.79C(1)(a)(iii))

8.3.1 Rockdale Development Control Plan 2011

The proposed development has been assessed against the *Rockdale Development Control Plan 2011* (RDCP 2011). For full reference of the RDCP 2011 assessment please refer to the detailed compliance check document attached to this report. A summary of compliance for the proposed development is provided below:

Part 6.4 – Advertising and Signage

Part 6.4 of the DCP relates to advertising and signage and therefore applies to the proposed development. It has been determined that the proposal complies with the relevant objectives and controls within this part, with the exception of one control which can be conditioned to comply as discussed below.

Part 6.4 Control 5 requires that electrical conduits of illuminated signs be taken directly into the building or otherwise screened to the satisfaction of Council. Insufficient details have been provided of the proposed electrical arrangement for the digital advertising panel to determine compliance and as such it is recommended a condition is imposed requiring details be submitted and compliance achieved prior to Construction Certificate.

8.4 PROVISIONS OF REGULATIONS (S.79C(1)(a)(iv))

The provisions of the regulations have been considered in the assessment of this development proposal where relevant.

8.5 IMPACT OF DEVELOPMENT (S.79C(1)(b))

8.5.1 Road safety

The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. The *Draft Transport Corridor Outdoor Advertising and Signage Guidelines*, have been considered in the assessment as they contain specific provisions relating to Digital Advertising. These criteria relate to technical details of illuminance levels, dwell times of advertisements etc, that are related to achieving a satisfactory level of road safety. Most of the technical details required to determine compliance have not been provided and are considered unreasonable to request at the Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria which will ensure a level of road safety is achieved in accordance with the draft guidelines.

8.5.2 Views and Vistas

The proposal will replace an existing bus shelter advertising panel with a new digital panel in the same location and the same size and dimensions. Accordingly, the view and vista to the adjoining Cook Park and Botany Bay is considered to be maintained as existing which is acceptable.

8.5.3 Character / Streetscape

The proposal will replace an existing scrolling poster bus shelter advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel. This is considered to provide a modern upgrade for the advertisement which is compatible with the desired amenity and visual character of the Ramsgate Beach area.

8.6 SUITABILITY OF THE SITE (S.79C(1)(c))

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Conditions of consent, including compliance with soil and erosion measures, and stormwater management are proposed to further minimise any impacts on the subject land or adjoining land as a result of the proposal.

The subject site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered and given the nature of the development and the long-standing use of the land for the purpose of a road, onsite investigation is not warranted.

There are no other major physical constraints or exceptional circumstances that would hinder the suitability of the site for the proposed development have been identified.

Accordingly, the site is considered suitable for the development.

8.7 SUBMISSIONS (S.79C(1)(d))

The DA was notified to the public from 21 October 2016 to 8 November 2016. No submissions were received.

8.8 PUBLIC INTEREST (S.79C(1)(e))

The proposed development is considered to be in the public interest.

9. CONCLUSION

This application has been assessed in accordance with the matters for consideration of Section 79C of the Act. The Development Application seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 194 The Grand Parade, Ramsgate Beach (Opposite 209 The Grand Parade).

The proposal has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979*. No significant issues have been identified and some minor issues have been resolved via conditions. The proposal is permissible in the SP2 – Infrastructure zone, the likely impacts are considered to be minimal and acceptable, and the development is considered to be suitable for the site and surrounding context.

Given the above, it is recommended that the application be approved pursuant to Section 80 of the Act and subject to the attached conditions of consent.

Our Ref: DA-2017/126
Contact: Marta M Gonzalez-Valdes 9562 1666

444-446 Princes Highway Rockdale NSW 2216
PO Box 21 Rockdale NSW 2216
T 1300 581 299 F 9562 1777
rcc@rockdale.nsw.gov.au
www.bayside.nsw.gov.au

Tract Consultants
8/80 Mount St
NORTH SYDNEY NSW 2060

NOTICE OF DETERMINATION

Issued in accordance with section 81(1a) of the *Environmental Planning and Assessment Act, 1979*

Application Number: DA-2017/126
Property: 194 The Grand Parade, RAMSGATE BEACH NSW
2217
ROAD 194B
ROAD 194C
Proposal: Opposite 209 The Grand Parade Monterey -
Replacement of existing bus shelter advertising panel
with new digital advertising panel

Authority:

Determination:

Date of determination:

Date consent commences:

Date consent lapses:

General Conditions

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. The term of this consent is limited to a period of five (5) years from the date of the original approval. The consent will lapse if the development does not commence within this time.
2. This consent expires 15 years after the date this consent becomes effective and operates. A new development application shall be submitted for any continuance of the use.
3. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Plan/Dwg No.	Drawn by	Dated	Received by Council
PDM, BOLDVU Outline Drawing Sheet 1-3	Manufacturing Resources International	23 May 2016	11 October 2016
Mero Ad (Mains) Digital (R-Box) - General Assembly Drawings Sheet 1-4	Adshell	24 February 2016	11 October 2016
Site Plan - Opposite 277 The Grand Parade, Monterey	Tract Consultants	August 2016	11 October 2016

4. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

Development specific conditions

The following conditions are specific to the Development Application proposal.

5. In accordance with the Draft Transport Corridor Outdoor Advertising and Signage Guidelines (prepared by NSW Department of Planning and Environment dated December 2015), the following must be adhered to:
 - a) Each advertisement must be displayed in a completely static manner, without any motion, for the approved dwell time as per criterion (d) below.
 - b) Message sequencing designed to make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.
 - c) The image must not be capable of being mistaken:
 - i) For a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device, or
 - ii) as text providing driving instructions to drivers.
 - d) Dwell times for image display are to be at least 10 seconds for areas where the speed limit is below 80km/h.
 - e) The transition time between messages must be no longer than 0.1 seconds.
 - f) Luminance levels must comply with Australian Standard AS4282 Control of the Obtrusive Effects of Outdoor Lightings. Table 3 of the Guidelines provides further guidance.
 - g) The images displayed on the sign must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.
 - h) The amount of text and information supplied on a sign should be kept to a minimum (for example no more than a driver can read at a short glance). Text should preferably be displayed in the same font and size. Table 6 in Section 3 of the Guidelines provides further guidance.
 - i) Any sign that is within 250 metres of a classified road and is visible from a school zone must be switched to a fixed display during school zone hours.
 - j) At any time, including where the speed limit in the area of the sign is changed, if detrimental effect is identified on road safety post installation of a digital sign, RMS reserves the right to re-assess the site which may result in a change to the dwell time or removal of the sign.
6. The following fees shall be paid to Council prior to installation of the sign. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.

i. A Footpath Reserve Restoration Deposit of \$1,628.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.

ii. An environmental enforcement fee of 0.25% of the cost of the works.

iii. A Soil and Water Management Sign of \$17.50.

7. Location of certain names and logos

The name or logo of the person who owns or leases an advertisement or advertising structure may appear only within the advertising display area. If the advertising display area has no border or surrounds, any such name or logo is to be located :

i) within the advertisement, or

ii) within a strip below the advertisement that extends for the full width of the advertisement.

The area of any such name or logo must not be greater than 0.25 square metres.

Electrical Conduits

Electrical conduits are to be taken directly into the bus shelter or otherwise screened to the satisfaction of Council.

Prior to commencement of works

The following conditions must be completed prior to the commencement of works.

8. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.

9. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:

i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or

ii) building involves the enclosure of a public place,

Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.

Where a development site adjoins a public thoroughfare with a footpath alongside the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:

(i) the vertical height above footpath level of the structure being demolished is less

than 4m; or

(ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must -

(i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;

(ii) have a clear height above the footpath of not less than 2.1m;

(iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and

(iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

10. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
 - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
 - ii) where the erection of gates or fences has restricted access to metering equipment.

During demolition / excavation / construction

The following conditions must be complied with during demolition, excavation and or construction.

11. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
12. Adequate provisions are to be made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
 - Sediment control measures
 - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
 - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
13. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense.

Development consent advice

- a. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:

- choosing quiet equipment
 - choosing alternatives to noisy activities
 - relocating noise sources away from affected neighbours
 - educating staff and contractors about quiet work practices
 - informing neighbours of potentially noise activities in advance
 - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- b. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

Additional Information

- To confirm the date upon which this consent becomes effective, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979*. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- To confirm the likelihood of consent lapsing, refer to Section 95 of the Act. Generally consent lapses if the development is not commenced within five (5) years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- Section 82A allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.
- Under Section 97 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.

Should you have any further queries please contact Marta M Gonzalez-Valdes on 9562 1666

Luis Melim
Manager - Development Services

PRELIMINARY ASSESSMENT

DA No:	DA-2017/126
Date Plans Rec'd	11 October 2016
Address:	194 The Grand Parade, Ramsgate Beach (Opposite 209 The Grand Parade)
Proposal:	Replacement of existing bus shelter advertising panel with new digital advertising panel.
Constraints Identified:	Nil
Zoning:	SP2 – Infrastructure

SEPP 64 – Advertising and Signage	Proposal	Compliance
<p>Cl. 3 Aims, objectives etc.</p> <p>(1) This Policy aims:</p> <p>(a) to ensure that signage (including advertising):</p> <p>(i) is compatible with the desired amenity and visual character of an area, and</p>	<p>The proposal will simply replace an existing scrolling poster bus shelter advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel. This is considered to provide a modern upgrade for the advertisement which is compatible with the desired amenity and visual character of the Ramsgate Beach area.</p>	<p>Yes</p>
<p>(ii) provides effective communication in suitable locations, and</p>	<p>The proposed digital advertising panel is located on the side of a bus shelter which provides for an effective and efficient means of communication and given it is adjacent to a classified road it is considered to be a suitable location.</p>	<p>Yes</p>
<p>(iii) is of high quality design and finish, and</p>	<p>The proposed modern digital advertising panel is considered to be of high quality design and finish.</p>	<p>Yes</p>
<p>(b) to regulate signage (but not content) under Part 4 of the Act, and</p>	<p>Noted. The proposal is for the advertising panel itself and not for the future content of advertising on the panel.</p>	<p>Yes</p>
<p>(c) to provide time-limited consents for the display of certain advertisements, and</p>	<p>Noted.</p>	<p>Yes</p>

SEPP 64 – Advertising and Signage	Proposal	Compliance
(d) to regulate the display of advertisements in transport corridors, and	Noted.	Yes
(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.	The proposal does not trigger requirements for public benefits.	N/A
<p>Cl. 9 Advertisements to which this Part applies</p> <p>This Part applies to all signage to which this Policy applies, other than the following:</p> <p>(a) business identification signs,</p> <p>(b) building identification signs,</p> <p>(c) signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it,</p> <p>(d) signage on vehicles.</p>	<p>The proposed development meets the definition of 'signage' under the provisions of SEPP 64. This is because the proposed sign constitutes 'advertisements' to which Part 3 of SEPP 64 applies.</p> <p>In accordance with Clause 9, the proposed development is considered to be an 'advertisement' (which is a type of signage) and an 'advertising structure' as it is not a business identification sign, building identification sign, signage that is exempt development, or signage on vehicles.</p> <p>Therefore, Part 3 of SEPP 64 applies.</p>	Yes
<p>Cl. 10 Prohibited advertisements</p> <p>Despite the provisions of any other environmental planning instrument, the display of an advertisement is prohibited on land that, under an environmental planning instrument, is within any of the following zones or descriptions:</p> <p>environmentally sensitive area heritage area (excluding railway stations) natural or other conservation area open space waterway residential (but not including a mixed residential and business zone, or similar zones) scenic protection area national park nature reserve</p>	<p>The proposed bus stop advertisement is located on land zone SP2 – Infrastructure which is not a listed zone. Accordingly, the development is not prohibited under this clause.</p>	Yes
<p>Cl. 12 Consent Authority</p> <p>For the purposes of this Policy, the consent authority is:</p> <p>(a) the council of a local government area in the case of an advertisement</p>	<p>The proposed advertisement is to be located in the Bayside Local Government Area and Cl. 12(c), (d), or (e) do not apply. Therefore, Bayside Council is the consent</p>	N/A

SEPP 64 – Advertising and Signage	Proposal	Compliance
<p>displayed in the local government area (unless paragraph (c), (d) or (e) applies), or</p> <p>(b) the Maritime Authority of NSW in the case of an advertisement displayed on a vessel, or</p> <p>(c) the Minister for Planning in the case of an advertisement displayed by or on behalf of RailCorp on a railway corridor, or</p> <p>(d) the Minister for Planning in the case of an advertisement displayed by or on behalf of the RTA on:</p> <p>(i) a road that is a freeway or tollway (under the Roads Act 1993) or associated road use land that is adjacent to such a road, or</p> <p>(ii) a bridge constructed by or on behalf of the RTA on any road corridor, or</p> <p>(iii) land that is owned, occupied or managed by the RTA, or</p> <p>(e) the Minister for Planning in the case of an advertisement displayed on transport corridor land comprising a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M4 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel, or associated road use land that is adjacent to such a road.</p>	<p>authority.</p>	
<p>Cl. 13 Matters for consideration</p> <p>(1) A consent authority (other than in a case to which subclause (2) applies) must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:</p> <p>(a) is consistent with the objectives of this Policy, and</p> <p>(b) assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and</p>	<p>As detailed above, the proposal is consistent with the objectives of this policy.</p> <p>As detailed below, the proposal has been assessed in accordance with the assessment criteria in Schedule 1 and the proposal is acceptable in terms of its impacts.</p>	<p>Yes</p> <p>Yes</p>

SEPP 64 – Advertising and Signage	Proposal	Compliance
(c) satisfies any other relevant requirements of this Policy	As detailed in this table, the proposal satisfies the relevant requirements of this policy. It is noted that the <i>Draft transport corridor outdoor advertising and signage guidelines</i> have been considered although it is not a matter for consideration for the subject proposal, and the proposal is considered to satisfy the relevant provisions of that document.	Yes
<p>Cl. 14 Duration of consents</p> <p>Consent granted under this part ceases 15 years after date consent becomes effective, or a lesser period specified on the consent. May only specify less than 15 years if before the commencement of the SEPP the consent authority has adopted a policy for less than 15 years OR the area is undergoing change in accordance with an EPI to change nature of area</p>	<p>In accordance with this clause, any consent granted for this Development Application must include a condition that the consent will expire 15 years after the date on which the consent becomes effective and operates.</p> <p>It is noted that the Bayside Council had not adopted any policy to reduce the 15 year expiration time prior to the commencement of the SEPP and the area is not undergoing change in accordance with an EPI to change the nature of the area.</p>	Condition
<p>Cl. 20 Location of certain names and logos</p> <p>Name or logo of person who owns or leases an advertisement or structure may appear only within the advertising display area. If no borders or surrounds, the name or logo must be within the advertisement or within a strip below the advertisement that extends the full width.</p>	Insufficient information has been provided to determine the location and size of the name/logo of the owner/leaser of the proposed advertisement. It is recommended a condition of consent is included that stipulates the required location and maximum size of the name/logo of the owner/leaser.	Condition
The area of the name or logo must not be greater than 0.25sqm and this area is to be included in calculating the size of the display area.	As above.	Condition
Schedule 1 – Assessment Criteria		
1 Character of the area		
Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?	The proposal replaces an existing bus shelter advertising panel with a new digital advertising panel in the same location and of the same size and dimensions. Accordingly, the proposal maintains the existing character and is therefore considered compatible.	Yes

SEPP 64 – Advertising and Signage	Proposal	Compliance
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposal is consistent with bus shelter advertising in the locality and across the Sydney region.	Yes
2 Special Area		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal will simply replace an existing bus stop advertising panel with a new digital panel. The bus stop is located on a main road and therefore proposed advertising panel is consistent with the surroundings and will not detract from sensitive areas.	Yes
3 Views and Vistas		
Does the proposal obscure or compromise important views?	The proposal will simply replace an existing bus stop advertising panel with a new digital panel and as such view lines will remain as existing.	Yes
Does the proposal dominate the skyline and reduce the quality of vistas?	As above.	Yes
Does the proposal respect the viewing rights of other advertisers?	As above.	Yes
4 Streetscape, setting or landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed digital advertising panel is the same as the panel it will replace. This scale, proportion and form is consistent with typical bus shelter advertising in the streetscape.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal will provide a modern digital advertising panel replacing an older style scrolling panel. The modern panel is considered to contribute to visual interest in the streetscape.	Yes
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal will provide a modern digital advertising panel replacing an older style scrolling panel. The modern panel is considered to simplify the existing advertising as it will not require ongoing physical poster replacements.	Yes
Does the proposal screen unsightliness?	The proposal provides a high quality finish to the bus shelter which adds visual interest to an unsightly bus shelter.	Yes

SEPP 64 – Advertising and Signage	Proposal	Compliance
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposal does not protrude above buildings, structures or tree canopies in the locality with a maximum height of 2.492m above ground level.	Yes
Does the proposal require ongoing vegetation management?	The proposal is located in a bus shelter on hard paving which is not surrounded by vegetation and as such ongoing vegetation management is not required.	Yes
5 Site and building		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed advertising is fully integrated into the design of the bus shelter, forming the side wall. It is therefore considered compatible.	Yes
Does the proposal respect important features of the site or building, or both?	The proposed advertising is fully integrated into the design of the bus shelter, forming the side wall. It is therefore considered to respect the important features of the bus shelter.	Yes
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposal is considered to show innovation in that it is a modern digital advertising structure that is fully integrated into the existing bus shelter.	Yes
6 Associated devices and logos with advertisements and advertising structures		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as well as ambient lighting.	Yes
7 Illumination		
Would illumination result in unacceptable glare?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as well as ambient lighting.	Yes
Would illumination affect safety for pedestrians, vehicles or aircraft?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as	Yes

SEPP 64 – Advertising and Signage	Proposal	Compliance
	well as ambient lighting.	
Would illumination detract from the amenity of any residence or other form of accommodation?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as well as ambient lighting. Accordingly, it is considered that the illumination is acceptable and will not detract from residences.	Yes
Can the intensity of the illumination be adjusted, if necessary?	The proposed digital advertising panel has adjustable intensity of illumination.	Yes
Is the illumination subject to a curfew?	There is no curfew for illumination at this location.	Yes
8 Safety		
Would the proposal reduce the safety for any public road?	The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. Accordingly, the advertising is will maintain the existing safety situation.	Yes
Would the proposal reduce the safety for pedestrians or bicyclists?	The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. Accordingly, the advertising is will maintain the existing safety situation.	Yes
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. Accordingly, the advertising is will maintain the existing safety situation.	Yes

Draft Transport Corridor Outdoor Advertising and Signage Guidelines	Proposal	Compliance
2.5.8 Digital Signs – Criteria – Signs less than 20m²	The proposed digital advertising panel has an area of 2m ² on each side for a total of 4m ² . Therefore, the below controls are considered relevant.	
a) Each advertisement must be displayed in a completely static manner, without any motion, for the approved dwell time as per criterion (d) below.	The submitted SEE notes that the advertisement will be displayed in a static manner and for the approved dwell time. It is recommended a condition of consent is included that ensures compliance.	Condition
(b) Message sequencing designed to	Insufficient information has been	Condition

Draft Transport Corridor Outdoor Advertising and Signage Guidelines	Proposal	Compliance
make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.	submitted to determine compliance. This is considered appropriate to be resolved via a condition.	
(c) The image must not be capable of being mistaken: (i) For a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device, or (ii) as text providing driving instructions to drivers.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition. Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition Condition
(d) Dwell times for image display are: (i) 10 seconds for areas where the speed limit is below 80km/h. (ii) 25 seconds for areas where the speed limit is 80km/h and over.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition. The speed limit along this section of The Grand Parade is not 80km/h and over.	Condition N/A
(e) The transition time between messages must be no longer than 0.1 seconds.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition
(f) Luminance levels must comply with the requirements in Table 3 below.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition
(g) The images displayed on the sign must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Yes Condition
(h) The amount of text and information supplied on a sign should be kept to a minimum (for example no more than a driver can read at a short glance). Text should preferably be displayed in the same font and size. Table 6 in Section 3 of these Guidelines provides further guidance.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition

Draft Transport Corridor Outdoor Advertising and Signage Guidelines	Proposal	Compliance
(i) Any sign that is within 250 metres of a classified road and is visible from a school zone must be switched to a fixed display during school zone hours.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition
(j) Each sign proposal must be assessed on a case by case basis including replacement of an existing fixed, scrolling or tri-vision sign with a digital sign and in the instance of a sign being visible from each direction, both directions for each location must be assessed on their own merits.	The proposal to replace an existing scrolling sign with a digital sign has been assessed on its own merits and is considered acceptable.	Yes
(k) At any time, including where the speed limit in the area of the sign is changed, if detrimental effect is identified on road safety post installation of a digital sign, RMS reserves the right to re-assess the site which may result in a change to the dwell time or removal of the sign.	This is considered acceptable to be conditioned.	Condition

ROCKDALE LEP 2011	PROPOSAL	Compliance
4.3(2) Height of buildings		
• N/A	2.492m	N/A
4.4(2) Floor space ratio		
• N/A	The proposal is for advertising which is not included in GFA and therefore there is no FSR.	N/A

ROCKDALE DCP 2011	Proposal	Compliance
6.4 Advertising and Signage		
Inappropriate Sign Types		
1) The erection of the following types of signs is not permitted: a) flashing, moving or video signs b) signs other than building identification signs above the awning in a Commercial zone; c) a sign erected on or above the	The proposal is for the replacement of an existing bus shelter advertising panel with a new digital advertising panel that is not any of the listed signage types.	Yes

ROCKDALE DCP 2011	Proposal	Compliance
<p>parapet of a building, other than a building identification sign;</p> <p>d) a sign attached to a building and capable of movement;</p> <p>e) Projecting wall sign (attached to a wall and projecting horizontally more than 300mm).</p>		
Streetscape and Amenity		
<p>2) Any signage proposed within an open space or infrastructure zone will be assessed on its merit, with consideration including the effect on the amenity of adjacent residential properties.</p>	<p>The proposed advertising panel is located within an infrastructure zone and has been assessed on its merits with consideration being had for the effect on the amenity of the adjacent residential properties. The digital panel will be oriented towards the road users and as such will not face adjacent residential properties.</p>	Yes
<p>3) In order to protect the amenity of residential uses adjoining commercial area, advertising in commercial zones are not permitted on walls or structures facing adjoining residential zones.</p>	<p>The proposed advertising is not located in a commercial zone.</p>	N/A
<p>4) In circumstances where the amenity of nearby residential areas will not be detrimentally affected, illumination may be permitted.</p>	<p>The proposed advertising panel utilised an LCD display which is considered a form of illumination. This is considered acceptable given the character of the area being a classified road where the ambient illumination of the area will be minimally affected by the panel. Furthermore, the panel will not be facing any residential properties.</p>	Yes
<p>5) Electrical conduits to illuminated signs are to be taken directly into the building or otherwise screened to the satisfaction of Council.</p>	<p>Insufficient details have been provided to determine the electrical conduit arrangement that is proposed.</p>	Condition
<p>6) The size, scale and number of advertisements and advertising structures respond to their context, and integrate with the streetscape rather than dominating it.</p>	<p>The proposed advertising is fully integrated into the design of the bus shelter, forming the side wall. It is therefore considered to respond to the context and integrate into the bus shelter and the streetscape.</p>	Yes
<p>7) The colours used in the design of an advertising sign or structure must complement the colour finish of the building to which it will be attached.</p>	<p>The proposed digital advertising panel will have a black frame which is considered a neutral colour that will complement the bus shelter.</p>	Yes

ROCKDALE DCP 2011	Proposal	Compliance
8) Corporate colours should be limited to the advertising sign or structure, and should not be applied to the painted surface of the building.	No corporate colours are proposed to be applied to the painted bus shelter.	Yes
9) Advertising should not impact upon natural features and any trimming or lopping of significant trees should be avoided at all times. Where this is absolutely necessary details of the extent of the lopping and identification of the specific trees will be required with the application.	The proposed digital advertising panel will simply replace the existing advertising panel and will not impact any natural features.	Yes
Size		
10) The maximum advertising area for:		
a) Commercial zones is 0.5m ² of advertising area per 1m of shopfront;	The proposed advertising panel is not located in a commercial zone.	N/A
b) Enterprise Corridor and Industrial zone is 1m ² of advertising area per 3m of street frontage.	The proposed advertising panel is not located in an enterprise corridor or industrial zone.	N/A
11) Signs must be of a size and proportion which complements the scale and proportion of the existing facade, as well as surrounding buildings and signs.	The scale, proportion and form of the proposed digital advertising panel is the same as the panel it will replace. This scale, proportion and form is consistent with typical bus shelter advertising in the streetscape.	Yes
12) Health Consulting Rooms in a residential zone are permitted a single advertisement located wholly within the boundary of the subject property and with a maximum size of 0.75 m ² .	The proposal does not relate to a Health Consulting Room.	N/A
Design		
13) A signage strategy is to be submitted with a development application for any building that requires advertising or signage and must include details of the location, type, construction and total number and size of signs on the building/site.	The proposed development is to replace an existing bus shelter advertising panel with a new digital advertising panel in the same location and of the same size and dimensions. Given the similarity to the existing advertising, a signage strategy is not considered necessary and it has not been submitted with the development application.	Yes
14) Where a building or site contains multiple tenancies or uses, a coordinated approach for all signs is	The bus shelter where the advertising is proposed to be located does not contain multiple tenancies or uses.	N/A

ROCKDALE DCP 2011	Proposal	Compliance
required.		
15) All advertisements in a foreign language must contain a legible English equivalent.	The proposed development is for the advertising panel and not the future content of the advertisements.	N/A
16) Advertising structures are to form an integrated part of the facade of buildings and must reinforce architectural elements and design.	The proposed advertising panel is fully integrated into the design of the bus shelter, forming the side wall.	Yes
17) Signage must not obscure decorative forms or mouldings and must observe a reasonable separation distance from the lines of windows, doors, parapets, piers, and the like.	The proposed advertising panel is fully integrated into the design of the bus shelter, forming the side wall.	Yes
18) Materials used must be durable, fade and corrosion proof and of a high aesthetic quality.	The proposed digital advertising panel has a high aesthetic quality and the materials are considered to be appropriate for durability.	Yes
Impact on Heritage Significance		
19) Advertising proposed for heritage items must have regard to its heritage significance and must complement the item. The architectural characteristics of a building should always dominate.	The proposed advertising panel is not located on a heritage item.	N/A
20) Signs on buildings or in areas of heritage significance must not by their size, design or colour detract from the character or significant qualities of individual buildings, their immediate context or the wider streetscape context of the area.	The proposed advertising panel will be located adjacent to a heritage item (I168) known as Cook Park which is of local significance. The digital advertising panel provides an upgrade to the existing panel it will replace which is considered to be an improvement to the heritage values of the adjacent park.	Yes
21) Historic signs may have their own significance and must not be obscured or diminished by later signage.	The existing advertising panel to be replaced is a typical scrolling poster bus shelter panel which is not considered to be of any historic significance.	Yes
Safety		
22) Advertising signs and their supporting structures must not be: a) hazardous to passers-by;	The proposed advertising panel will not be a hazard to passers-by, rather it will improve safety as it replaces an	Yes

ROCKDALE DCP 2011	Proposal	Compliance
b) located so as to be hazardous for traffic safety and must not obscure a driver's or pedestrian's view of road or rail vehicles, pedestrians or features of the road, railway or footpath (e.g. junctions, bends, changes in width);	older panel with a modern digital panel. The proposal will replace an existing advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel. It is not considered to be inappropriately located.	Yes
c) so highly illuminated that they cause discomfort to, or inhibit vision of drivers or pedestrians;	It is recommended a condition is imposed that requires compliance with the Digital Advertising Criteria from the <i>Draft Transport Corridor Outdoor Advertising and Signage Guidelines</i> which contains provisions relating to illumination.	Condition
d) mistaken as an official traffic sign and must not distract a drivers attention or be confused with instructions given by traffic signals.	Given the prevalence of bus shelter advertising panels and that the panel is fully integrated into the bus shelter, it is considered unlikely that the advertising panel will be mistaken as an official traffic sign.	Yes

Summary of Issues/Non compliances:

Resolved via condition

- SEPP 64 *Draft Transport Corridor Outdoor Advertising and Signage Guidelines* – The draft guidelines contain specific digital advertising criteria. These relate to technical details of illuminance levels, dwell times of advertisements etc. that are unreasonable to request at Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria from the draft guidelines.
- SEPP 64 Expiration of Consent – Clause 14 requires that consents granted under the SEPP expire 15 years after the date the consent becomes effective and operates. Accordingly, it is recommended that a condition is imposed that expires the consent after 15 years.
- SEPP 64 Name/logo location and size – Clause 20 contains requirements for the location and size of the name or logo of the person who owns or leases the advertisement. Insufficient details have been provided to determine compliance and as such it is recommended a condition is imposed requiring compliance.
- RDCP2011 Electrical conduits - Control 5 of Part 6.4 requires that electrical conduits of illuminated signs be taken directly into the building or otherwise

screened to the satisfaction of Council. Insufficient details have been provided of the proposed electrical arrangement for the digital advertising panel to determine compliance and as such it is recommended a condition is imposed requiring compliance.

Certification

I certify that all of the above issues have been accurately and professionally examined by me.

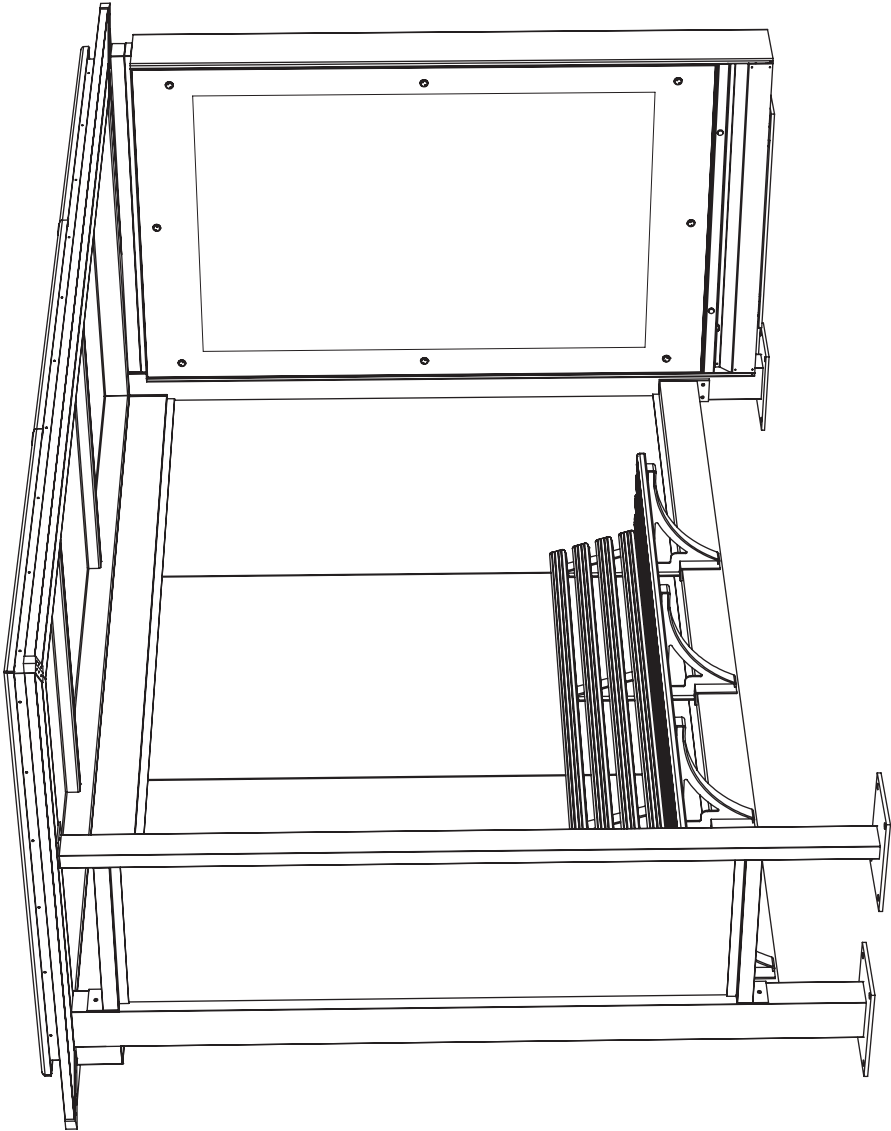
Name James Arnold.

Signature

A handwritten signature in black ink, appearing to read 'James Arnold', written in a cursive style.

Date 20 January 2017

GENERAL ASSEMBLY DRAWING



FRONT ELEVATION

UNLESS OTHERWISE SPECIFIED: DIMENSIONS ARE IN MILLIMETERS = XX = INDICATES DIMENSION SYMMETRIC ABOUT CENTRELINE	TOLERANCES: LINEAR: ± 0.5mm ANGULAR: ± 0.5° 	DRAWN: NJN	DATE: 24-02-2016	TITLE: Metro Ad (Mains) Digital (R-Box)	DRAWING NO: C-010-100172-01	DRAWING TYPE: Layout Drawing	MATERIAL: -	FINISH: -	SIZE: A3	SCALE: 1:15	SHEET: 1
		REVISION: -	DATE: -								

MRI, Inc.



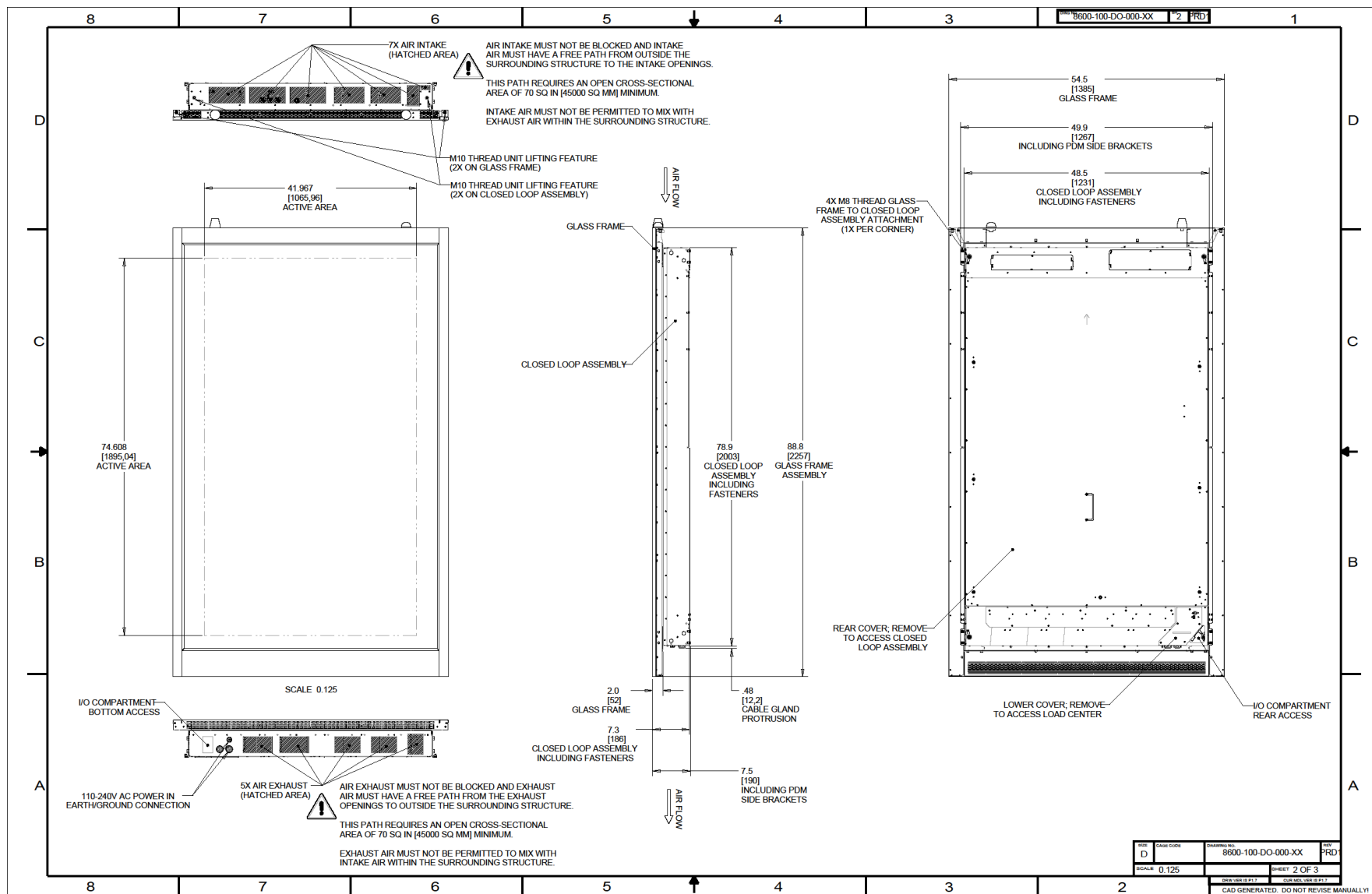


Figure 2. Outline drawing (2 of 3)

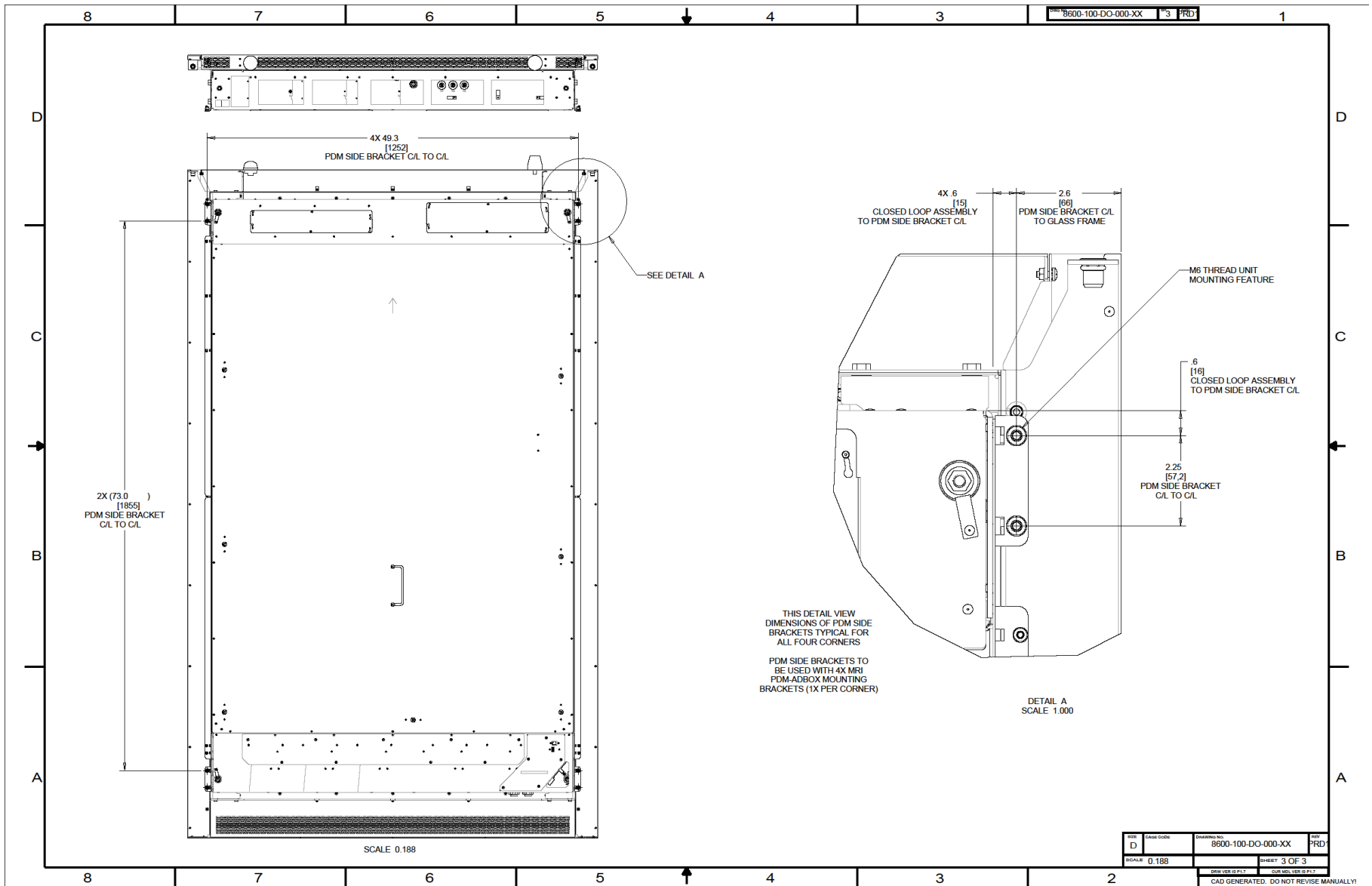


Figure 3. Outline drawing (3 of 3)

Council Meeting

8/03/2017

Item No	9.15
Property	ROAD 199 Rocky Point Road Sans Souci (fronting 480-494 Rocky Point Road)
Proposal	Replacement of existing bus shelter advertising panel with new digital advertising panel
Cost of Development	\$5000
Report by	Creative Planning Solutions Pty Ltd
Application No	DA-2017/127

Council Resolution

Minute 2017/039

Resolved by the Administrator:

That Development Application No. 2017/127 which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 194 The Grand Parade, Ramsgate Beach (Opposite 209 The Grand Parade) be APPROVED pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the attached conditions of consent.

Officer Recommendation

That Development Application No. 2017/127 which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 194 The Grand Parade, Ramsgate Beach (Opposite 209 The Grand Parade) be APPROVED pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the attached conditions of consent.

Attachments

1. Planning Assessment Report
 2. Draft Notice of Determination
 3. Compliance Checklist
 4. Bus Shelter Drawing
 5. Advertising Panel Drawing
-

Location Plan

AERIAL

Approx. location of existing bus shelter



BAYSIDE COUNCIL

COUNCIL REPORT

1. APPLICATION DETAILS

Property:	ROAD 199 Rocky Point Road, San Souci (Fronting 480-494 Rocky Point Road) NSW 2219
Proposal:	Replacement of existing bus shelter advertising panel with new digital advertising panel.
Date Lodged:	11 October 2016
File Number:	DA-2017/127
Owner:	Bayside Council
Author:	James Arnold – Creative Planning Solutions Pty Limited
Coordinator:	Marta Gonzalez-Valdes – Coordinator Major Assessment Team

2. REPORT SUMMARY

This report considers a Development Application (DA) which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 199 Rocky Point Road, San Souci (Opposite 209 Rocky Point Road).

No significant issues were identified in the assessment and some minor issues have been resolved via conditions of consent which are discussed as follows:

- SEPP 64 *Draft Transport Corridor Outdoor Advertising and Signage Guidelines* – The draft guidelines contain specific criteria for digital advertising. These criteria relate to technical details of illuminance levels, dwell times of advertisements etc. that are unreasonable to request at the Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria from the draft guidelines.
- SEPP 64 Expiration of Consent – Clause 14 requires that consents granted under the SEPP expire 15 years after the date the consent becomes effective and operates. Accordingly, it is recommended that a condition is imposed that expires the consent after 15 years.
- SEPP 64 Name/logo location and size – Clause 20 contains requirements for the location and size of the name or logo of the person who owns or leases the advertisement. Insufficient details have been provided to determine compliance and as such it is recommended a condition is imposed requiring compliance.

- RDCP2011 Electrical conduits – Part 6.4 Control 5 requires that electrical conduits of illuminated signs be taken directly into the building or otherwise screened to the satisfaction of Council. Insufficient details have been provided of the proposed electrical arrangement for the digital advertising panel to determine compliance and as such it is recommended a condition is imposed requiring compliance.

Having regard to the matters for consideration in Section 79C(1) of the Environmental Planning and Assessment Act 1979 (the Act), the following has been determined:

- When assessed against the relevant environmental planning instruments pertaining to the proposed development, including the State Environmental Planning Policy No. 64 – Advertising and Signage and the Rockdale Local Environmental Plan 2011, the proposal satisfactorily complies with the applicable objectives and provisions;
- When assessed against the relevant provisions of the Rockdale Development Control Plan 2011, the proposal complies with the relevant development controls. Where non-compliances with development controls have been identified, these are considered to be satisfactorily justifiable;
- The likely impacts of the proposed development have been considered and determined to be minimal and be satisfactory;
- The site is considered suitable for the proposed development; and,
- Having regard for the level of compliance with the applicable planning controls, the proposed development is considered to be in the public interest.

3. RECOMMENDATION

That Development Application No. 2017/127 which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 199 Rocky Point Road, San Souci (Fronting 480-494 Rocky Point Road) be APPROVED pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to the attached conditions of consent.

4. BACKGROUND

The subject DA was lodged with Council on 11 October 2016. The DA was notified to the public from 21 October 2016 to 8 November 2016. No submissions were received.

A review of the subject site's development history using Council's online Development Application search returned with no results. This suggests that the subject site has not been subject to any works requiring Council approval since 1 July 2004, since the ePlanning portal applies to applications submitted after 1 July 2004.

5. PROPOSAL

Council is in receipt of Development Application DA-2017/127 at 199 Rocky Point Road, San Souci (Fronting 480-494 Rocky Point Road) which seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel.

Details of the proposed development are as follows:

- Remove the existing static-scrolling poster advertising panel,
- Install a LED digital advertising panel where the existing panel is located. The new panel has the following specifications:
 - Two sided,
 - 1895mm x 1065mm dimensions,
 - 2m² each side of panel,
 - Maximum height of 2.492m above the footpath level.

The submitted Statement of Environmental Effects provides the following additional details about the proposed advertising panel:

The advertisements will be on a 10 second dwell time with instantaneous transitioning between advertisements. No animation or dynamic digital display is proposed... The panel has been designed to adopt the national guidelines for digital display illumination, brightness, and transition timeframes, taking into account day/night time transitions, as well as ambient lighting.

6. EXISTING AND SURROUNDING USES

The subject site is the road reservation of Rocky Point Road. The address of the subject site is 199 Rocky Point Road, San Souci, and the bus shelter where the proposed advertising is to be located is in front of 480-494 Rocky Point Road, San Souci on the eastern side of the road between the intersections with Sandringham Street and Bonanza Parade.

Rocky Point Road is a classified road that runs north-south from Taren Point in the south to St George in the north. Rocky Point Road is a four to six lane road with travel lanes in both directions and parking lanes along portions of the road. Adjacent to the bus shelter are three southerly travel lanes on the eastern side of the road and three northerly travel lanes and a parking lane on the western side of the road.

The bus shelter which the proposed advertising panel will be installed on, is a typical Sydney bus shelter with one open side to the street. The bus shelter is constructed with metal posts with a glass back and side, an advertising panel on the other side, and a flat metal roof. The bus shelter sits on the concrete footpath. The existing advertising panel is two sided and contains static-scrolling poster advertisements.

The surrounding locality is characterised by two eat-in and drive-through fast food premises and a service station on the eastern side of Rocky Point Road and a traditional retail and business premises shopping strip on the western side of Rocky Point Road.



Figure 1: Location of bus shelter where the digital advertising panel is proposed circled in red
(Source: nearmap.com.au)



Figure 2: Bus Shelter and existing advertising panel to be replaced looking south
(Source: CPS, 2016)

7. REFERRALS

7.1. EXTERNAL

The Development Application was referred to the following external authorities:

- Roads and Maritime Services (RMS) – The development application was referred to the RMS on 20 October 2016 and a response was received on 17 November 2016. The response stated that the development application was not required to be referred to the RMS and as such no comment was provided.
- State Transit Authority (STA) – The development application was referred to STA and a response was received on 11 November 2016. The response stated that no objection was raised to the works however STA requested notification when the works will be carried out and if the requirement to close the bus stop during the construction is required. These requests are recommended to be imposed as conditions of consent.

7.2. INTERNAL

The Development Application was not referred to any internal departments.

8. PLANNING CONSIDERATIONS - SECTION 79C OF THE EP&A ACT 1979

The following is an assessment of the proposed development under the provisions of Section 79C(1) of the *Environmental and Planning Assessment Act 1979* (the Act).

8.1 PROVISIONS OF ENVIRONMENTAL PLANNING INSTRUMENTS (S.79C(1)(a)(i))

8.1.1 State Environmental Planning Policy No. 64 – Advertising and Signage

Clause 6 – Signage to which this policy applies

SEPP 64 is considered to apply to the proposed development which is discussed below.

The proposed development meets the definition of ‘signage’ under the provisions of SEPP 64. This is because the proposed sign constitutes ‘advertisements’ to which Part 3 of SEPP 64 applies.

In accordance with Clause 9, the proposed development is considered to be an ‘advertisement’ (which is a type of signage) and an ‘advertising structure’ as it is not a business identification sign, building identification sign, signage that is exempt development, or signage on vehicles. The relevant definitions from the SEPP are provided below.

advertisement means signage to which Part 3 applies and includes any advertising structure for the advertisement.

Note. Part 3 applies to all signage other than business identification signs, building identification signs, signage that is exempt development, or signage on vehicles

advertising structure means a structure or vessel that is principally designed for, or that is used for, the display of an advertisement.

Clause 6 of SEPP 64 outlines the following with regard to signage to which SEPP 64 applies:

(1) *This Policy applies to all signage:*

- a) *that, under another environmental planning instrument that applies to the signage, can be displayed with or without development consent, and*
- b) *is visible from any public place or public reserve,*

except as provided by this Policy.

*Note. **Public place** and **public reserve** are defined in section 4 (1) of the Act to have the same meanings as in the Local Government Act 1993.*

(2) *This Policy does not apply to signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it, or that is exempt development under this Policy.*

In accordance with Clause 6, SEPP 64 applies to the proposed development as it can be displayed with development consent under the RLEP2011 (refer to permissibility discussion under RLEP section of this report) and will be visible from a public place or public reserve.

It is noted that the proposal does not satisfy Clause 6(2) as the proposal is not considered to meet the exempt development provisions under other environmental planning instruments. The proposal is not identified as exempt development under RLEP2011, nor is it identified under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Furthermore, the proposal would not constitute exempt development under the provisions of *State Environmental Planning Policy (Infrastructure) 2007*.

Given the above, SEPP 64 is considered to apply to the proposed development and the following are the relevant provisions from the SEPP that have been taken into consideration.

Clause 3 – Aims, objectives etc

The proposed advertising panel is considered to be consistent with the aims of the SEPP for the following reasons:

- The proposal will replace an existing scrolling poster bus shelter advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel providing a modern upgrade which is compatible with the desired amenity and visual character of the San Souci area.

- The advertising panel will be located on the side of a bus shelter which provides for an effective and efficient means of communication and given it is adjacent to a classified road it is considered to be a suitable location.
- The proposed modern digital advertising panel is considered to be of high quality design and finish.

Clause 10 – Prohibited advertisements

As discussed above, the proposed development is considered to be an ‘advertisement’ in accordance with the definitions contained within Clause 4 and the provisions of Clause 9. Clause 10 stipulates that the display of advertisements is prohibited in the following zones: environmentally sensitive area, heritage area, natural or other conservation area, open space, waterway, residential, scenic protection area, national park, and nature reserve.

The proposed bus stop advertisement is located on land zone SP2 – Infrastructure which is not a listed zone. Accordingly, the development is not prohibited under this clause.

Clause 12 – Consent Authority

The proposed advertisement is to be located in the Bayside Local Government Area and Cl. 12(c), (d), or (e) do not apply. Therefore, Bayside Council is the consent authority.

Clause 13 – Matters for consideration

The matters for consideration stipulated in Clause 13(1) are considered to apply to the subject proposal as Council is the consent authority and Clause 18 or 24 do not apply. Therefore, the matters for consideration for the subject Development Application are as follows:

a) is consistent with the objectives of this Policy, and

As discussed above, the proposal is considered to be consistent with the objectives of the SEPP.

b) assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is acceptable in terms of its impacts, and

The proposal has been assessed in accordance with the assessment criteria in Schedule 1 and is considered acceptable in terms of its impacts.

c) satisfies any other relevant requirements of this Policy

The proposal satisfies the other relevant requirements of the SEPP. It is noted that the, although not a matter for consideration for the proposal, the *Draft Transport Corridor Outdoor Advertising and Signage Guidelines* have been considered as it provides specific requirements for digital advertising. These criteria relate to technical details of illuminance levels, dwell times of advertisements etc. that are unreasonable to request at the Development Application stage. Accordingly, it is recommended that these

requirements are consolidated into a condition requiring compliance with these criteria from the draft guidelines.

Clause 14 – Duration of consents

In accordance with this clause, any consent granted for this Development Application must expire 15 years after the date on which the consent becomes effective and operates.

It is noted that the Bayside Council had not adopted any policy to reduce the 15 year expiration time prior to the commencement of the SEPP and the area is not considered to be undergoing change in accordance with an EPI to change the nature of the area. Accordingly, the 15 year expiration clause applies and it is recommended a condition of consent to this effect is imposed.

Clause 20 – Location of certain names and logos

Insufficient information has been provided to determine the location and size of the name/logo of the owner/leaser of the proposed advertisement. It is recommended a condition of consent is included to ensure compliance with this clause.

8.1.2 Rockdale Local Environmental Plan 2011

The following are relevant matters from the LEP that have been taken into consideration.

Clause 2.1 – Land Use Zones

Rocky Point Road corridor is zoned SP2 – Infrastructure. Within the SP2 zone, development permitted with consent includes:

The purpose shown on the Land Zoning Map, including any development that is ordinarily incidental or ancillary to development for that purpose.

The purpose shown on the Land Zoning Map where the advertising is proposed is 'Classified Road'. Accordingly, the road and any development that is ordinarily incidental or ancillary to development for the purpose of a Classified Road is also permitted with consent. All other forms of development are identified as being prohibited within the SP2 zone, except that for the purposes of 'roads' which is permissible without consent.

The proposed development is considered to be for both an 'advertisement' and the associated 'advertising structure' on which the advertisement is to be displayed. The RLEP refers to the *Environmental Planning and Assessment Act 1979* for the relevant definitions which are as follows.

advertisement means a sign, notice, device or representation in the nature of an advertisement visible from any public place or public reserve or from any navigable water.

advertising structure means a structure used or to be used principally for the display of an advertisement.

Given the above, for the proposed advertisement/advertising structure to be permissible in the zone, it must be considered as *ordinarily incidental or ancillary* to a Classified Road.

It is considered that the provision for *ordinarily incidental* to development for a Classified Road would reasonably include a bus shelter advertising panel in the particular form proposed. The reason for this is the high prevalence of bus shelter advertisements in the particular form and scale that is proposed. That is, the advertising panel forms the side of the bus shelter and is fully integrated into and fundamental to the structure and functioning of the bus shelter as would be ordinarily found on many, if not most, bus shelters on Classified Roads across NSW. The fundamental aspect of what makes the proposed advertising panel *ordinarily incidental*, is that it takes the form of a bus shelter advertising panel that would be ordinarily encountered within a bus shelter on a Classified Road. Therefore, to provide further clarity, this argument would not apply to a bus shelter advertising panel which is not ordinarily encountered, such as if it protruded above the roof of the bus shelter.

Accordingly, it is considered the proposed advertising panel is permitted with consent in the zone.

Clause 4.3 – Height of Buildings

There is no maximum height of buildings specified for the subject site.

It is noted that the maximum height of the proposed advertising panel is 2.492m above the footpath level below.

Clause 4.4 – Floor Space Ratio

There is no maximum floor space ratio specified for the subject site.

It is noted that the proposed advertising panel does not constitute gross floor area and therefore does not have a floor space ratio.

Clause 5.9 – Preservation of trees or vegetation

Clause 5.9 of LEP2011 prescribes that a person must not ringbark, cut down, top, lop, remove, injure or wilfully destroy any tree or other vegetation to which any such development control plan applies without the authority conferred by development consent, or a permit granted by the Council.

The proposed digital advertising panel will simply replace the existing advertising panel and will not impact any trees or vegetation.

Accordingly, the proposed development is considered to satisfy Clause 5.9.

Clause 5.10 Heritage Conservation

The proposed advertising panel is not located on a heritage item, is not within the vicinity of a heritage item, and is not within a heritage conservation area.

Accordingly, there are no heritage concerns with the proposed development pursuant to Clause 5.10.

Clause 6.1 – Acid Sulfate Soils

The subject site has been identified as being affected by Acid Sulfate Soils (ASS) – Class 5. The proposal does not involve any significant disturbance of the soils that would trigger a requirement for an Acid Sulfate Soils Management Plan. Accordingly, the proposal satisfies Clause 6.1.

8.2 PROVISIONS OF ANY PROPOSED INSTRUMENT THAT IS OR HAS BEEN THE SUBJECT OF PUBLIC CONSULTATION UNDER THIS ACT AND THAT HAS BEEN NOTIFIED TO THE CONSENT AUTHORITY (S.79C(1)(a)(iii))

No draft environmental planning instruments have been identified that are relevant to the proposed development.

8.3 PROVISIONS OF DEVELOPMENT CONTROL PLANS (S.79C(1)(a)(iii))

8.3.1 Rockdale Development Control Plan 2011

The proposed development has been assessed against the *Rockdale Development Control Plan 2011* (RDCP 2011). For full reference of the RDCP 2011 assessment please refer to the detailed compliance check document attached to this report. A summary of compliance for the proposed development is provided below:

Part 6.4 – Advertising and Signage

Part 6.4 of the DCP relates to advertising and signage and therefore applies to the proposed development. It has been determined that the proposal complies with the relevant objectives and controls within this part, with the exception of one control which can be conditioned to comply as discussed below.

Part 6.4 Control 5 requires that electrical conduits of illuminated signs be taken directly into the building or otherwise screened to the satisfaction of Council. Insufficient details have been provided of the proposed electrical arrangement for the digital advertising panel to determine compliance and as such it is recommended a condition is imposed requiring details be submitted and compliance achieved prior to Construction Certificate.

8.4 PROVISIONS OF REGULATIONS (S.79C(1)(a)(iv))

The provisions of the regulations have been considered in the assessment of this development proposal where relevant.

8.5 IMPACT OF DEVELOPMENT (S.79C(1)(b))

8.5.1 Road safety

The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. The *Draft Transport Corridor Outdoor Advertising and Signage Guidelines*, have been considered in the assessment as they contain specific provisions relating to Digital Advertising. These criteria relate to technical details of illuminance levels, dwell times of advertisements etc., that are related to achieving a satisfactory level of road safety. Most of the technical details required to determine compliance have not been provided and are considered unreasonable to request at the Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria which will ensure a level of road safety is achieved in accordance with the draft guidelines.

8.5.2 Character / Streetscape

The proposal will replace an existing scrolling poster bus shelter advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel. This is considered to provide a modern upgrade for the advertisement which is compatible with the desired amenity and visual character of the San Souci area.

8.6 SUITABILITY OF THE SITE (S.79C(1)(c))

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Conditions of consent, including compliance with soil and erosion measures, and stormwater management are proposed to further minimise any impacts on the subject land or adjoining land as a result of the proposal.

The subject site is not known to be affected by any natural hazards or other site constraints that are likely to have a significant adverse impact on the proposed development. The issue of likely site contamination has been considered and given the nature of the development and the long-standing use of the land for the purpose of a road, onsite investigation is not warranted.

There are no other major physical constraints or exceptional circumstances that would hinder the suitability of the site for the proposed development have been identified.

Accordingly, the site is considered suitable for the development.

8.7 SUBMISSIONS (S.79C(1)(d))

The DA was notified to the public from 21 October 2016 to 8 November 2016. No submissions were received.

8.8 PUBLIC INTEREST (S.79C(1)(e))

The proposed development is considered to be in the public interest

9. CONCLUSION

This application has been assessed in accordance with the matters for consideration of Section 79C of the Act. The Development Application seeks consent for the replacement of an existing bus shelter advertising panel with a new digital advertising panel at 199 Rocky Point Road, San Souci (Fronting 480-494 Rocky Point Road).

The proposal has been assessed in accordance with Section 79C of the *Environmental Planning and Assessment Act 1979*. No significant issues have been identified and some minor issues have been resolved via conditions. The proposal is permissible in the SP2 – Infrastructure zone, the likely impacts are considered to be minimal and acceptable, and the development is considered to be suitable for the site and surrounding context.

Given the above, it is recommended that the application be approved pursuant to Section 80 of the Act and subject to the attached conditions of consent.

Our Ref: DA-2017/127
Contact: Marta M Gonzalez-Valdes 9562 1666

444-446 Princes Highway Rockdale NSW 2216
PO Box 21 Rockdale NSW 2216
T 1300 581 299 F 9562 1777
rcc@rockdale.nsw.gov.au
www.bayside.nsw.gov.au

Tract Consultants
8/80 Mount St
NORTH SYDNEY NSW 2060

NOTICE OF DETERMINATION

Issued in accordance with section 81(1a) of the *Environmental Planning and Assessment Act, 1979*

Application Number:	DA-2017/127
Property:	199 Rocky Point Road, SANS SOUCI NSW 2219 ROAD 199B ROAD 199A ROAD 199B ROAD 199C ROAD 199D
Proposal:	Replacement of existing bus shelter advertising panel with new digital advertising panel
Authority:	
Determination:	
Date of determination:	
Date consent commences:	
Date consent lapses:	

General Conditions

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. The term of this consent is limited to a period of five (5) years from the date of the original approval. The consent will lapse if the development does not commence within this time.
2. This consent expires 15 years after the date this consent becomes effective and operates. A new development application shall be submitted for any continuance of the use.
3. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Plan/Dwg No.	Drawn by	Dated	Received by Council
PDM, BOLDVU Outline Drawing Sheet 1-3	Manufacturing Resources International	23 May 2016	11 October 2016
Mero Ad (Mains) Digital (R-Box) - General Assembly Drawings Sheet 1-4	Adshell	24 February 2016	11 October 2016
Site Plan – Adjoining 480-494 Rocky Point Road, Sans Souci	Tract Consultants	August 2016	11 October 2016

4. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).

Development specific conditions

The following conditions are specific to the Development Application proposal.

5. In accordance with the Draft Transport Corridor Outdoor Advertising and Signage Guidelines (prepared by NSW Department of Planning and Environment dated December 2015), the following must be adhered to:
 - a) Each advertisement must be displayed in a completely static manner, without any motion, for the approved dwell time as per criterion (d) below.
 - b) Message sequencing designed to make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.
 - c) The image must not be capable of being mistaken:
 - i) For a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device, or
 - ii) as text providing driving instructions to drivers.
 - d) Dwell times for image display are to be at least 10 seconds for areas where the speed limit is below 80km/h.
 - e) The transition time between messages must be no longer than 0.1 seconds.
 - f) Luminance levels must comply with Australian Standard AS4282 Control of the Obtrusive Effects of Outdoor Lightings. Table 3 of the Guidelines provides further guidance.
 - g) The images displayed on the sign must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.
 - h) The amount of text and information supplied on a sign should be kept to a minimum (for example no more than a driver can read at a short glance). Text should preferably be displayed in the same font and size. Table 6 in Section 3 of the Guidelines provides further guidance.
 - i) Any sign that is within 250 metres of a classified road and is visible from a school zone must be switched to a fixed display during school zone hours.
 - j) At any time, including where the speed limit in the area of the sign is changed, if detrimental effect is identified on road safety post installation of a digital sign, RMS reserves the right to re-assess the site which may result in a change to the dwell time or removal of the sign.

6. The following fees shall be paid to Council prior to installation of the sign. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
 - i. A Footpath Reserve Restoration Deposit of \$1,628.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
 - ii. An environmental enforcement fee of 0.25% of the cost of the works.
 - iii. A Soil and Water Management Sign of \$17.50.
7. Location of certain names and logos

The name or logo of the person who owns or leases an advertisement or advertising structure may appear only within the advertising display area. If the advertising display area has no border or surrounds, any such name or logo is to be located :

- i) within the advertisement, or
- ii) within a strip below the advertisement that extends for the full width of the advertisement.

The area of any such name or logo must not be greater than 0.25 square metres.

Electrical Conduits

Electrical conduits are to be taken directly into the bus shelter or otherwise screened to the satisfaction of Council.

Prior to commencement of works

The following conditions must be completed prior to the commencement of works.

8. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
9. A hoarding or fence shall be erected between the work site and the public place when the work involved in the erection or demolition of a building:
 - i) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - ii) building involves the enclosure of a public place,Where the development site adjoins a public thoroughfare, the common boundary between them must be fenced for its full length with a hoarding, unless, the least horizontal distance between the common boundary and the nearest part of the structure is greater than twice the height of the structure. The hoarding must be constructed of solid materials (chain wire or the like is not acceptable) to a height of not less than 1.8m adjacent to the thoroughfare.
Where a development site adjoins a public thoroughfare with a footpath alongside

the common boundary then, in addition to the hoarding required above, the footpath must be covered by an overhead protective structure, type B Hoarding, and the facing facade protected by heavy duty scaffolding unless either:

- (i) the vertical height above footpath level of the structure being demolished is less than 4m; or
- (ii) the least horizontal distance between footpath and the nearest part of the structure is greater than half the height of the structure.

The overhead structure must consist of a horizontal platform of solid construction and vertical supports, and the platform must -

- (i) extend from the common boundary to 200mm from the edge of the carriageway for the full length of the boundary;
- (ii) have a clear height above the footpath of not less than 2.1m;
- (iii) terminate not less than 200mm from the edge of the carriageway (clearance to be left to prevent impact from passing vehicles) with a continuous solid upstand projecting not less than 0.5m above the platform surface; and
- (iv) together with its supports, be designed for a uniformly distributed live load of not less than 7 kPa

The 'B' Class hoarding is to be lit by fluorescent lamps with anti-vandalism protection grids.

Any such hoarding, fence or awning is to be removed when the work has been completed.

The principal contractor or owner builder must pay all fees and rent associated with the application and occupation and use of the road (footway) for required hoarding or overhead protection.

10. Consultation with Ausgrid is essential prior to commencement of work. Failure to notify Ausgrid may involve unnecessary expense in circumstances such as:
 - i) where the point of connection and the meter board has been located in positions other than those selected by Ausgrid or
 - ii) where the erection of gates or fences has restricted access to metering equipment.

During demolition / excavation / construction

The following conditions must be complied with during demolition, excavation and or construction.

11. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
12. Adequate provisions are to be made for the following measures (as applicable), to ensure compliance with the terms of Council's approval:
 - Sediment control measures
 - Provision of perimeter fences or hoardings for public safety and restricted access to building sites.
 - Maintenance of the public place free from unauthorised materials, waste containers or other obstructions.
13. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense.

Development consent advice

- a. Demolition and construction shall minimise the emission of excessive noise and prevent "offensive noise" as defined in the Protection of the Environment Operations

Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:

- choosing quiet equipment
 - choosing alternatives to noisy activities
 - relocating noise sources away from affected neighbours
 - educating staff and contractors about quiet work practices
 - informing neighbours of potentially noise activities in advance
 - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- b. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

Additional Information

- To confirm the date upon which this consent becomes effective, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979*. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- To confirm the likelihood of consent lapsing, refer to Section 95 of the Act. Generally consent lapses if the development is not commenced within five (5) years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- Section 82A allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.
- Under Section 97 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.

Should you have any further queries please contact Marta M Gonzalez-Valdes on 9562 1666

Luis Melim
Manager - Development Services

PRELIMINARY ASSESSMENT

DA No:	DA-2017/127
Date Plans Rec'd	11 October 2016
Address:	199 Rocky Point Road, San Souci (Fronting 480-494 Rocky Point Road)
Proposal:	Replacement of existing bus shelter advertising panel with new digital advertising panel.
Constraints Identified:	Nil
Zoning:	SP2 – Infrastructure

SEPP 64 – Advertising and Signage	Proposal	Compliance
<p>Cl. 3 Aims, objectives etc.</p> <p>(1) This Policy aims:</p> <p>(a) to ensure that signage (including advertising):</p> <p>(i) is compatible with the desired amenity and visual character of an area, and</p> <p>(ii) provides effective communication in suitable locations, and</p> <p>(iii) is of high quality design and finish, and</p> <p>(b) to regulate signage (but not content) under Part 4 of the Act, and</p> <p>(c) to provide time-limited consents for the display of certain advertisements,</p>	<p>The proposal will simply replace an existing scrolling poster bus shelter advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel. This is considered to provide a modern upgrade for the advertisement which is compatible with the desired amenity and visual character of the San Souci area.</p> <p>The proposed digital advertising panel is located on the side of a bus shelter which provides for an effective and efficient means of communication. Given it is adjacent to a classified road it is considered to be a suitable location.</p> <p>The proposed modern digital advertising panel is considered to be of high quality design and finish.</p> <p>Noted. The proposal is for the advertising panel itself and not for the future content of advertising on the panel.</p> <p>Noted.</p>	<p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p> <p>Yes</p>

SEPP 64 – Advertising and Signage	Proposal	Compliance
<p>and</p> <p>(d) to regulate the display of advertisements in transport corridors, and</p> <p>(e) to ensure that public benefits may be derived from advertising in and adjacent to transport corridors.</p>	<p>Noted.</p> <p>The proposal does not trigger requirements for public benefits.</p>	<p>Yes</p> <p>N/A</p>
<p>Cl. 9 Advertisements to which this Part applies</p> <p>This Part applies to all signage to which this Policy applies, other than the following:</p> <p>(a) business identification signs,</p> <p>(b) building identification signs,</p> <p>(c) signage that, or the display of which, is exempt development under an environmental planning instrument that applies to it,</p> <p>(d) signage on vehicles.</p>	<p>The proposed development meets the definition of 'signage' under the provisions of SEPP 64. This is because the proposed sign constitutes 'advertisements' to which Part 3 of SEPP 64 applies.</p> <p>In accordance with Clause 9, the proposed development is considered to be an 'advertisement' (which is a type of signage) and an 'advertising structure' as it is not a business identification sign, building identification sign, signage that is exempt development, or signage on vehicles.</p> <p>Therefore, Part 3 of SEPP 64 applies.</p>	<p>Yes</p>
<p>Cl. 10 Prohibited advertisements</p> <p>Despite the provisions of any other environmental planning instrument, the display of an advertisement is prohibited on land that, under an environmental planning instrument, is within any of the following zones or descriptions:</p> <p>environmentally sensitive area heritage area (excluding railway stations) natural or other conservation area open space waterway residential (but not including a mixed residential and business zone, or similar zones) scenic protection area national park nature reserve</p>	<p>The proposed bus stop advertisement is located on land zone SP2 – Infrastructure which is not a listed zone. Accordingly, the development is not prohibited under this clause.</p>	<p>Yes</p>
<p>Cl. 12 Consent Authority</p> <p>For the purposes of this Policy, the consent authority is:</p> <p>(a) the council of a local government</p>	<p>The proposed advertisement is to be located in the Bayside Local Government Area and Cl. 12(c), (d),</p>	<p>N/A</p>

SEPP 64 – Advertising and Signage	Proposal	Compliance
<p>area in the case of an advertisement displayed in the local government area (unless paragraph (c), (d) or (e) applies), or</p> <p>(b) the Maritime Authority of NSW in the case of an advertisement displayed on a vessel, or</p> <p>(c) the Minister for Planning in the case of an advertisement displayed by or on behalf of RailCorp on a railway corridor, or</p> <p>(d) the Minister for Planning in the case of an advertisement displayed by or on behalf of the RTA on:</p> <p>(i) a road that is a freeway or tollway (under the Roads Act 1993) or associated road use land that is adjacent to such a road, or</p> <p>(ii) a bridge constructed by or on behalf of the RTA on any road corridor, or</p> <p>(iii) land that is owned, occupied or managed by the RTA, or</p> <p>(e) the Minister for Planning in the case of an advertisement displayed on transport corridor land comprising a road known as the Sydney Harbour Tunnel, the Eastern Distributor, the M2 Motorway, the M4 Motorway, the M5 Motorway, the M7 Motorway, the Cross City Tunnel or the Lane Cove Tunnel, or associated road use land that is adjacent to such a road.</p>	<p>or (e) do not apply. Therefore, Bayside Council is the consent authority.</p>	
<p>Cl. 13 Matters for consideration</p> <p>(1) A consent authority (other than in a case to which subclause (2) applies) must not grant consent to an application to display an advertisement to which this Policy applies unless the advertisement or the advertising structure, as the case requires:</p> <p>(a) is consistent with the objectives of this Policy, and</p> <p>(b) assessed by the consent authority in accordance with the assessment criteria in Schedule 1 and the consent authority is satisfied that the proposal is</p>	<p>As detailed above, the proposal is consistent with the objectives of this policy.</p> <p>As detailed below, the proposal has been assessed in accordance with the assessment criteria in Schedule 1 and the proposal is acceptable in</p>	<p>Yes</p> <p>Yes</p>

SEPP 64 – Advertising and Signage	Proposal	Compliance
<p>acceptable in terms of its impacts, and</p> <p>(c) satisfies any other relevant requirements of this Policy</p>	<p>terms of its impacts.</p> <p>As detailed in this table, the proposal satisfies the relevant requirements of this policy. It is noted that the <i>Draft transport corridor outdoor advertising and signage guidelines</i> have been considered although it is not a matter for consideration for the subject proposal, and the proposal is considered to satisfy the relevant provisions of that document.</p>	<p>Yes</p>
<p>Cl. 14 Duration of consents</p> <p>Consent granted under this part ceases 15 years after date consent becomes effective, or a lesser period specified on the consent. May only specify less than 15 years if before the commencement of the SEPP the consent authority has adopted a policy for less than 15 years OR the area is undergoing change in accordance with an EPI to change nature of area</p>	<p>In accordance with this clause, any consent granted for this Development Application must include a condition that the consent will expire 15 years after the date on which the consent becomes effective and operates.</p> <p>It is noted that the Bayside Council had not adopted any policy to reduce the 15 year expiration time prior to the commencement of the SEPP and the area is not undergoing change in accordance with an EPI to change the nature of the area.</p>	<p>Condition</p>
<p>Cl. 20 Location of certain names and logos</p> <p>Name or logo of person who owns or leases an advertisement or structure may appear only within the advertising display area. If no borders or surrounds, the name or logo must be within the advertisement or within a strip below the advertisement that extends the full width.</p>	<p>Insufficient information has been provided to determine the location and size of the name/logo of the owner/leaser of the proposed advertisement. It is recommended a condition of consent is included that stipulates the required location and maximum size of the name/logo of the owner/leaser.</p>	<p>Condition</p>
<p>The area of the name or logo must not be greater than 0.25sqm and this area is to be included in calculating the size of the display area.</p>	<p>As above.</p>	<p>Condition</p>
<p>Schedule 1 – Assessment Criteria</p>		
<p>1 Character of the area</p>		
<p>Is the proposal compatible with the existing or desired future character of the area or locality in which it is proposed to be located?</p>	<p>The proposal replaces an existing bus shelter advertising panel with a new digital advertising panel in the same location and of the same size and dimensions. Accordingly, the proposal maintains the existing character and</p>	<p>Yes</p>

SEPP 64 – Advertising and Signage	Proposal	Compliance
	is therefore considered compatible.	
Is the proposal consistent with a particular theme for outdoor advertising in the area or locality?	The proposal is consistent with bus shelter advertising in the locality and across the Sydney region.	Yes
2 Special Area		
Does the proposal detract from the amenity or visual quality of any environmentally sensitive areas, heritage areas, natural or other conservation areas, open space areas, waterways, rural landscapes or residential areas?	The proposal will simply replace an existing bus stop advertising panel with a new digital panel. The bus stop is located on a main road and therefore proposed advertising panel is consistent with the surroundings and will not detract from sensitive areas.	Yes
3 Views and Vistas		
Does the proposal obscure or compromise important views?	The proposal will simply replace an existing bus stop advertising panel with a new digital panel and as such view lines will remain as existing.	Yes
Does the proposal dominate the skyline and reduce the quality of vistas?	As above.	Yes
Does the proposal respect the viewing rights of other advertisers?	As above.	Yes
4 Streetscape, setting or landscape		
Is the scale, proportion and form of the proposal appropriate for the streetscape, setting or landscape?	The scale, proportion and form of the proposed digital advertising panel is the same as the panel it will replace. This scale, proportion and form is consistent with typical bus shelter advertising in the streetscape.	Yes
Does the proposal contribute to the visual interest of the streetscape, setting or landscape?	The proposal will provide a modern digital advertising panel replacing an older style scrolling panel. The modern panel is considered to contribute to visual interest in the streetscape.	Yes
Does the proposal reduce clutter by rationalising and simplifying existing advertising?	The proposal will provide a modern digital advertising panel replacing an older style scrolling panel. The modern panel is considered to simplify the existing advertising as it will not require ongoing physical poster replacements.	Yes
Does the proposal screen unsightliness?	The proposal provides a high quality finish to the bus shelter which adds visual interest to an unsightly bus shelter.	Yes

SEPP 64 – Advertising and Signage	Proposal	Compliance
Does the proposal protrude above buildings, structures or tree canopies in the area or locality?	The proposal does not protrude above buildings, structures or tree canopies in the locality with a maximum height of 2.492m above ground level.	Yes
Does the proposal require ongoing vegetation management?	The proposal is located in a bus shelter on hard paving which is not surrounded by vegetation and as such ongoing vegetation management is not required.	Yes
5 Site and building		
Is the proposal compatible with the scale, proportion and other characteristics of the site or building, or both, on which the proposed signage is to be located?	The proposed advertising is fully integrated into the design of the bus shelter, forming the side wall. It is therefore considered compatible.	Yes
Does the proposal respect important features of the site or building, or both?	The proposed advertising is fully integrated into the design of the bus shelter, forming the side wall. It is therefore considered to respect the important features of the bus shelter.	Yes
Does the proposal show innovation and imagination in its relationship to the site or building, or both?	The proposal is considered to show innovation in that it is a modern digital advertising structure that is fully integrated into the existing bus shelter.	Yes
6 Associated devices and logos with advertisements and advertising structures		
Have any safety devices, platforms, lighting devices or logos been designed as an integral part of the signage or structure on which it is to be displayed?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as well as ambient lighting.	Yes
7 Illumination		
Would illumination result in unacceptable glare?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as well as ambient lighting.	Yes
Would illumination affect safety for pedestrians, vehicles or aircraft?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as	Yes

SEPP 64 – Advertising and Signage	Proposal	Compliance
	well as ambient lighting.	
Would illumination detract from the amenity of any residence or other form of accommodation?	The proposed digital advertising panel adopts national guidelines for digital display illumination, brightness and transition timeframes, taking into account day/night time transitions, as well as ambient lighting. Accordingly, it is considered that the illumination is acceptable and will not detract from residences.	Yes
Can the intensity of the illumination be adjusted, if necessary?	The proposed digital advertising panel has adjustable intensity of illumination.	Yes
Is the illumination subject to a curfew?	There is no curfew for illumination at this location.	Yes
8 Safety		
Would the proposal reduce the safety for any public road?	The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. Accordingly, the advertising is will maintain the existing safety situation.	Yes
Would the proposal reduce the safety for pedestrians or bicyclists?	The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. Accordingly, the advertising is will maintain the existing safety situation.	Yes
Would the proposal reduce the safety for pedestrians, particularly children, by obscuring sightlines from public areas?	The proposal replaces an existing advertising panel in the same location and of the same size and dimensions. Accordingly, the advertising is will maintain the existing safety situation.	Yes

Draft Transport Corridor Outdoor Advertising and Signage Guidelines	Proposal	Compliance
2.5.8 Digital Signs – Criteria – Signs less than 20m²	The proposed digital advertising panel has an area of 2m ² on each side for a total of 4m ² . Therefore, the below controls are considered relevant.	
a) Each advertisement must be displayed in a completely static manner, without any motion, for the approved dwell time as per criterion (d) below.	The submitted SEE notes that the advertisement will be displayed in a static manner and for the approved dwell time. It is recommended a condition of consent is included that ensures compliance.	Condition
(b) Message sequencing designed to	Insufficient information has been	Condition

Draft Transport Corridor Outdoor Advertising and Signage Guidelines	Proposal	Compliance
make a driver anticipate the next message is prohibited across images presented on a single sign and across a series of signs.	submitted to determine compliance. This is considered appropriate to be resolved via a condition.	
(c) The image must not be capable of being mistaken: (i) For a prescribed traffic control device because it has, for example, red, amber or green circles, octagons, crosses or triangles or shapes or patterns that may result in the advertisement being mistaken for a prescribed traffic control device, or (ii) as text providing driving instructions to drivers.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition. Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition Condition
(d) Dwell times for image display are: (i) 10 seconds for areas where the speed limit is below 80km/h. (ii) 25 seconds for areas where the speed limit is 80km/h and over.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition. The speed limit along this section of Rocky Point Road is not 80km/h and over.	Condition N/A
(e) The transition time between messages must be no longer than 0.1 seconds.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition
(f) Luminance levels must comply with the requirements in Table 3 below.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition
(g) The images displayed on the sign must not otherwise unreasonably dazzle or distract drivers without limitation to their colouring or contain flickering or flashing content.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Yes Condition
(h) The amount of text and information supplied on a sign should be kept to a minimum (for example no more than a driver can read at a short glance). Text should preferably be displayed in the same font and size. Table 6 in Section 3 of these Guidelines provides further guidance.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition

Draft Transport Corridor Outdoor Advertising and Signage Guidelines	Proposal	Compliance
(i) Any sign that is within 250 metres of a classified road and is visible from a school zone must be switched to a fixed display during school zone hours.	Insufficient information has been submitted to determine compliance. This is considered appropriate to be resolved via a condition.	Condition
(j) Each sign proposal must be assessed on a case by case basis including replacement of an existing fixed, scrolling or tri-vision sign with a digital sign and in the instance of a sign being visible from each direction, both directions for each location must be assessed on their own merits.	The proposal to replace an existing scrolling sign with a digital sign has been assessed on its own merits and is considered acceptable.	Yes
(k) At any time, including where the speed limit in the area of the sign is changed, if detrimental effect is identified on road safety post installation of a digital sign, RMS reserves the right to re-assess the site which may result in a change to the dwell time or removal of the sign.	This is considered acceptable to be conditioned.	Condition

ROCKDALE LEP 2011	PROPOSAL	Compliance
4.3(2) Height of buildings		
• N/A	2.492m	N/A
4.4(2) Floor space ratio		
• N/A	The proposal is for advertising which is not included in GFA and therefore there is no FSR.	N/A

ROCKDALE DCP 2011	Proposal	Compliance
6.4 Advertising and Signage		
Inappropriate Sign Types		
1) The erection of the following types of signs is not permitted: a) flashing, moving or video signs	The proposal is for the replacement of an existing bus shelter advertising panel with a new digital advertising panel that is not any of the listed signage types.	Yes

ROCKDALE DCP 2011	Proposal	Compliance
<ul style="list-style-type: none"> b) signs other than building identification signs above the awning in a Commercial zone; c) a sign erected on or above the parapet of a building, other than a building identification sign; d) a sign attached to a building and capable of movement; e) Projecting wall sign (attached to a wall and projecting horizontally more than 300mm). 		
Streetscape and Amenity		
2) Any signage proposed within an open space or infrastructure zone will be assessed on its merit, with consideration including the effect on the amenity of adjacent residential properties.	The proposed advertising panel is located within an infrastructure zone and has been assessed on its merits with consideration being had for the effect on the amenity of the adjacent residential properties. The digital panel will be oriented towards the road users and as such will not face any residential properties.	Yes
3) In order to protect the amenity of residential uses adjoining commercial area, advertising in commercial zones are not permitted on walls or structures facing adjoining residential zones.	The proposed advertising is not located in a commercial zone.	N/A
4) In circumstances where the amenity of nearby residential areas will not be detrimentally affected, illumination may be permitted.	The proposed advertising panel utilised an LCD display which is considered a form of illumination. This is considered acceptable given the character of the area being a classified road where the ambient illumination of the area will be minimally affected by the panel. Furthermore, the panel will not be facing any residential properties.	Yes
5) Electrical conduits to illuminated signs are to be taken directly into the building or otherwise screened to the satisfaction of Council.	Insufficient details have been provided to determine the electrical conduit arrangement that is proposed.	Condition
6) The size, scale and number of advertisements and advertising structures respond to their context, and integrate with the streetscape rather than dominating it.	The proposed advertising is fully integrated into the design of the bus shelter, forming the side wall. It is therefore considered to respond to the context and integrate into the bus shelter and the streetscape.	Yes

ROCKDALE DCP 2011	Proposal	Compliance
7) The colours used in the design of an advertising sign or structure must complement the colour finish of the building to which it will be attached.	The proposed digital advertising panel will have a black frame which is considered a neutral colour that will complement the bus shelter.	Yes
8) Corporate colours should be limited to the advertising sign or structure, and should not be applied to the painted surface of the building.	No corporate colours are proposed to be applied to the painted bus shelter.	Yes
9) Advertising should not impact upon natural features and any trimming or lopping of significant trees should be avoided at all times. Where this is absolutely necessary details of the extent of the lopping and identification of the specific trees will be required with the application.	The proposed digital advertising panel will simply replace the existing advertising panel and will not impact any natural features.	Yes
Size		
10) The maximum advertising area for:		
a) Commercial zones is 0.5m ² of advertising area per 1m of shopfront;	The proposed advertising panel is not located in a commercial zone.	N/A
b) Enterprise Corridor and Industrial zone is 1m ² of advertising area per 3m of street frontage.	The proposed advertising panel is not located in an enterprise corridor or industrial zone.	N/A
11) Signs must be of a size and proportion which complements the scale and proportion of the existing facade, as well as surrounding buildings and signs.	The scale, proportion and form of the proposed digital advertising panel is the same as the panel it will replace. This scale, proportion and form is consistent with typical bus shelter advertising in the streetscape.	Yes
12) Health Consulting Rooms in a residential zone are permitted a single advertisement located wholly within the boundary of the subject property and with a maximum size of 0.75 m ² .	The proposal does not relate to a Health Consulting Room.	N/A
Design		
13) A signage strategy is to be submitted with a development application for any building that requires advertising or signage and must include details of the location, type, construction and total number and size of signs on the building/site.	The proposed development is to replace an existing bus shelter advertising panel with a new digital advertising panel in the same location and of the same size and dimensions. Given the similarity to the existing advertising, a signage strategy is not considered necessary and it has not been submitted with the development	Yes

ROCKDALE DCP 2011	Proposal	Compliance
	application.	
14) Where a building or site contains multiple tenancies or uses, a coordinated approach for all signs is required.	The bus shelter where the advertising is proposed to be located does not contain multiple tenancies or uses.	N/A
15) All advertisements in a foreign language must contain a legible English equivalent.	The proposed development is for the advertising panel and not the future content of the advertisements.	N/A
16) Advertising structures are to form an integrated part of the facade of buildings and must reinforce architectural elements and design.	The proposed advertising panel is fully integrated into the design of the bus shelter, forming the side wall.	Yes
17) Signage must not obscure decorative forms or mouldings and must observe a reasonable separation distance from the lines of windows, doors, parapets, piers, and the like.	The proposed advertising panel is fully integrated into the design of the bus shelter, forming the side wall.	Yes
18) Materials used must be durable, fade and corrosion proof and of a high aesthetic quality.	The proposed digital advertising panel has a high aesthetic quality and the materials are considered to be appropriate for durability.	Yes
Impact on Heritage Significance		
19) Advertising proposed for heritage items must have regard to its heritage significance and must complement the item. The architectural characteristics of a building should always dominate.	The proposed advertising panel is not located on a heritage item.	N/A
20) Signs on buildings or in areas of heritage significance must not by their size, design or colour detract from the character or significant qualities of individual buildings, their immediate context or the wider streetscape context of the area.	The proposed advertising panel is not located on a heritage item, is not within the vicinity of a heritage item, and is not within a heritage conservation area.	N/A
21) Historic signs may have their own significance and must not be obscured or diminished by later signage.	The existing advertising panel to be replaced is a typical scrolling poster bus shelter panel which is not considered to be of any historic significance.	Yes
Safety		
22) Advertising signs and their supporting structures must not be: a) hazardous to passers-by;	The proposed advertising panel will not be a hazard to passers-by, rather	Yes

ROCKDALE DCP 2011	Proposal	Compliance
	it will improve safety as it replaces an older panel with a modern digital panel.	
b) located so as to be hazardous for traffic safety and must not obscure a driver's or pedestrian's view of road or rail vehicles, pedestrians or features of the road, railway or footpath (e.g. junctions, bends, changes in width);	The proposal will replace an existing advertising panel with a digital advertising panel in the same location and of the same size and dimensions as the existing panel. It is not considered to be inappropriately located.	Yes
c) so highly illuminated that they cause discomfort to, or inhibit vision of drivers or pedestrians;	It is recommended a condition is imposed that requires compliance with the Digital Advertising Criteria from the <i>Draft Transport Corridor Outdoor Advertising and Signage Guidelines</i> which contains provisions relating to illumination.	Condition
d) mistaken as an official traffic sign and must not distract a drivers attention or be confused with instructions given by traffic signals.	Given the prevalence of bus shelter advertising panels and that the panel is fully integrated into the bus shelter, it is considered unlikely that the advertising panel will be mistaken as an official traffic sign.	Yes

Summary of Issues/Non compliances:

Resolved via condition

- SEPP 64 *Draft Transport Corridor Outdoor Advertising and Signage Guidelines* – The draft guidelines contain specific digital advertising criteria. These relate to technical details of illuminance levels, dwell times of advertisements etc. that are unreasonable to request at Development Application stage. Accordingly, it is recommended that these requirements are consolidated into a condition requiring compliance with these criteria from the draft guidelines.
- SEPP 64 Expiration of Consent – Clause 14 requires that consents granted under the SEPP to expire 15 years after the date the consent becomes effective and operates. Accordingly, it is recommended that a condition is imposed that expires the consent after 15 years.
- SEPP 64 Name/logo location and size – Clause 20 contains requirements for the location and size of the name or logo of the person who owns or leases the advertisement. Insufficient details have been provided to determine compliance and as such it is recommended a condition is imposed requiring compliance.
- RDCP2011 Electrical conduits - Control 5 of Part 6.4 requires that electrical conduits of illuminated signs be taken directly into the building or otherwise

screened to the satisfaction of Council. Insufficient details have been provided of the proposed electrical arrangement for the digital advertising panel to determine compliance and as such it is recommended a condition is imposed requiring compliance.

Certification

I certify that all of the above issues have been accurately and professionally examined by me.

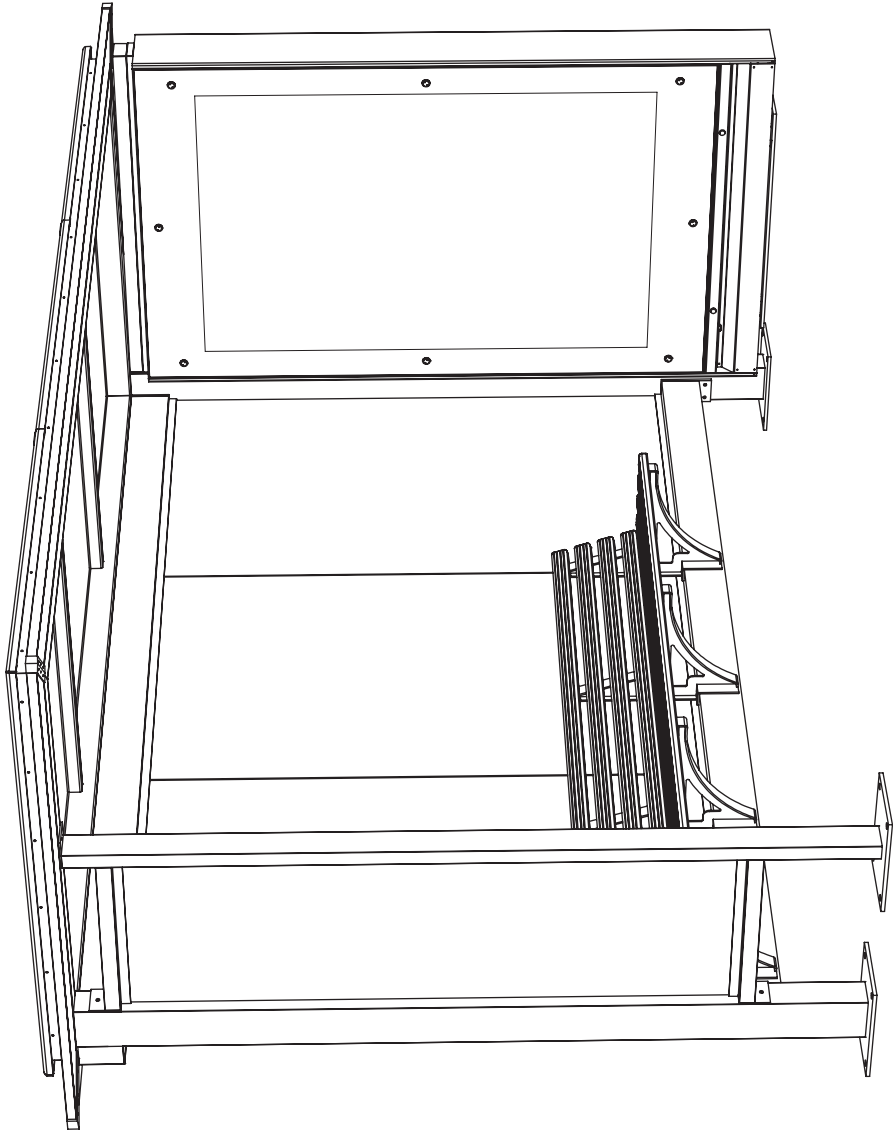
Name James Arnold.

Signature

A handwritten signature in black ink, appearing to read 'James Arnold', written in a cursive style.

Date 23 January 2017

GENERAL ASSEMBLY DRAWING



FRONT ELEVATION

UNLESS OTHERWISE SPECIFIED: DIMENSIONS ARE IN MILLIMETERS = XX = INDICATES DIMENSION SYMMETRIC ABOUT CENTRELINE	TOLERANCES: LINEAR: ± 0.5mm ANGULAR: ± 0.5° 	DRAWN: NJN	DATE: 24-02-2016	TITLE: Metro Ad (Mains) Digital (R-Box)	DRAWING NO: C-010-100172-01				
		REVISION: -	DATE: -						
		CHECKED: -	DATE: -						
CAD GENERATED DRAWING DO NOT MANUALLY UPDATE DO NOT SCALE DRAWING				DRAWING TYPE: Layout Drawing	MATERIAL: -	FINISH: -	SIZE: A3	SCALE: 1:15	SHEET: 1
ADSHEL 17 Rocklea Drive Port Melbourne VIC 3207 t: (+613) 9921 9600 f: (+613) 9921 9681									

7 Drawings

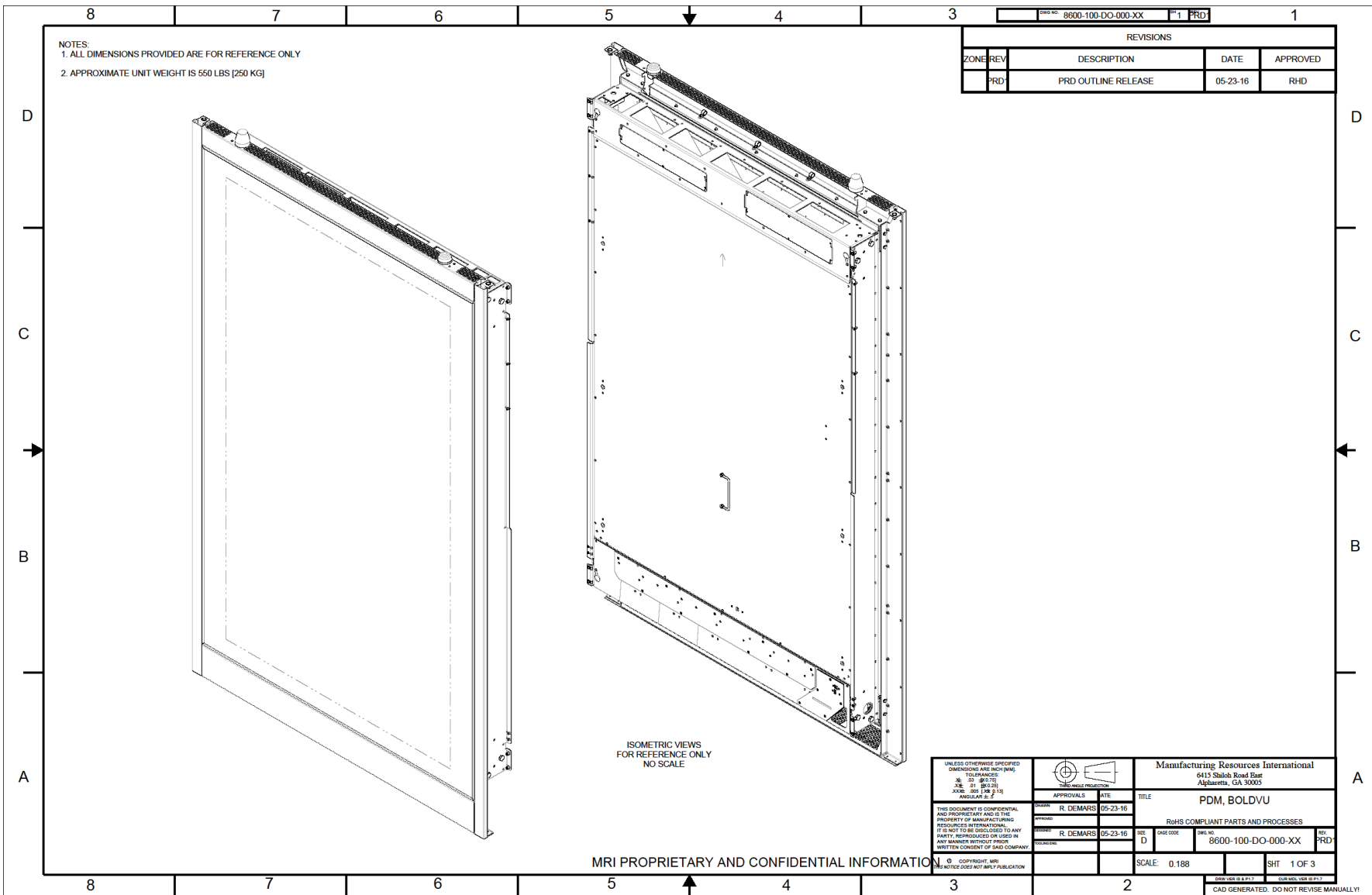
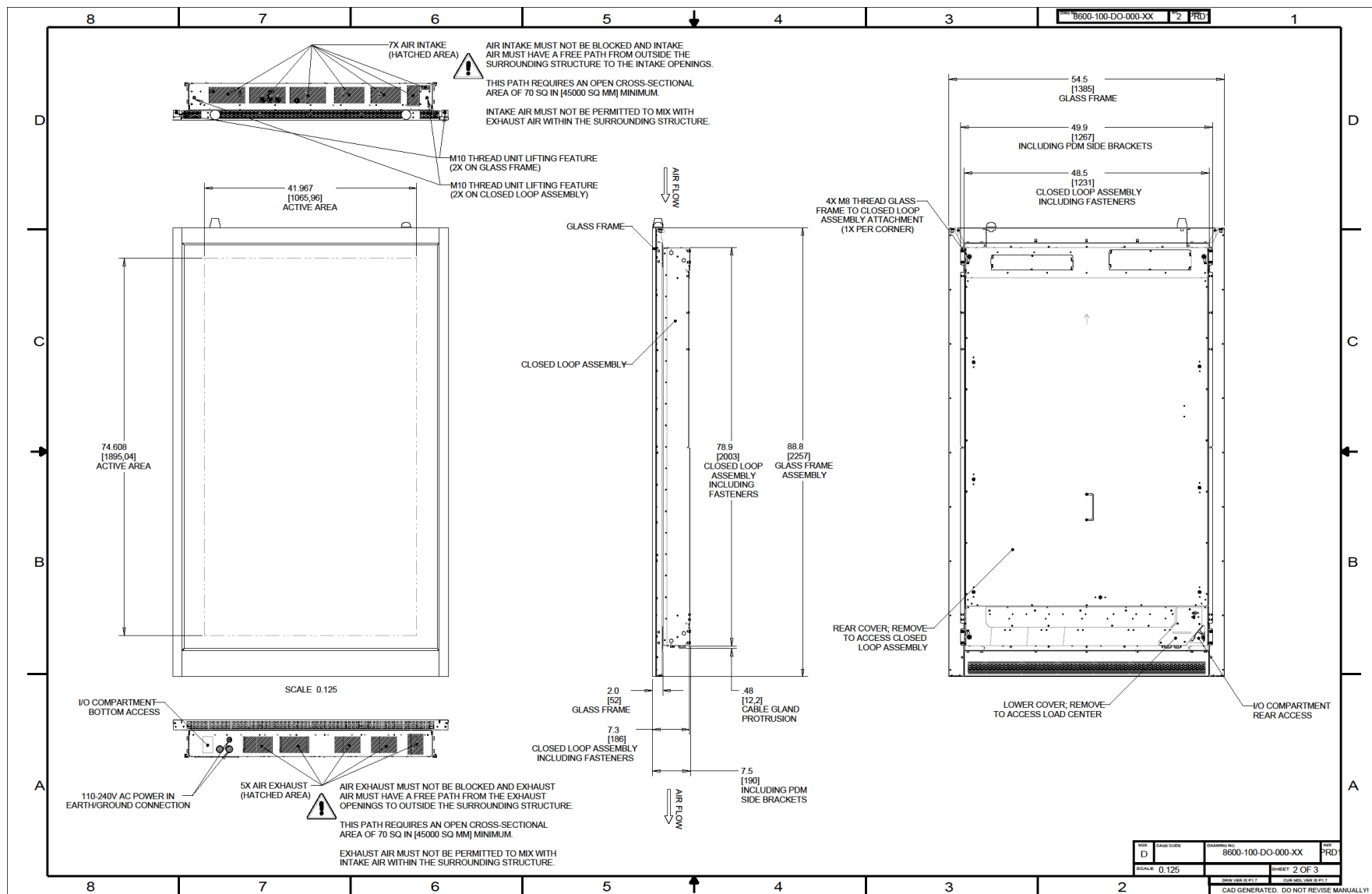


Figure 1. Outline drawing (1 of 3)



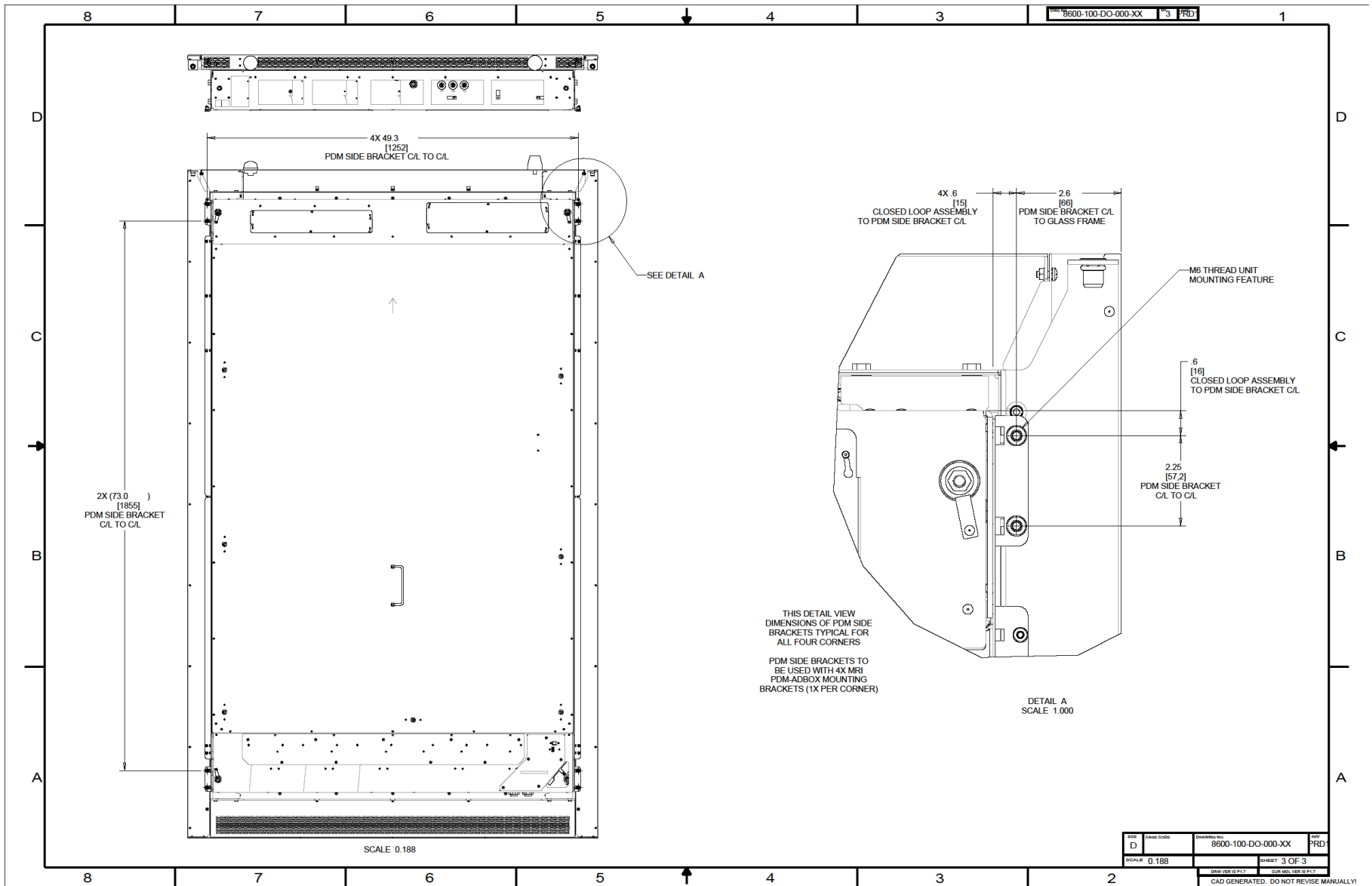


Figure 3. Outline drawing (3 of 3)

Council Meeting

8/03/2017

Item No	9.16
Property	6A Gipps Street, Bardwell Valley
Proposal	Torrens title subdivision into two (2) lots
Report by	Michael Maloof
Application No	DA-2015/382

Council Resolution

Minute 2017/040

Resolved by the Administrator:

- 1 That Council support the variation to the minimum subdivision lot size as contained in clause 4.1 of the Rockdale Local Environmental Plan 2011 in accordance with the clause 4.6 request submitted by the applicant.
 - 2 That Development Application DA-2015/382 for the subdivision of the site into two lots under Torrens Title subdivision at 6A Gipps Street, Bardwell valley be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
-

Officer Recommendation

- 1 That Council support the variation to the minimum subdivision lot size as contained in clause 4.1 of the Rockdale Local Environmental Plan 2011 in accordance with the clause 4.6 request submitted by the applicant.
 - 2 That Development Application DA-2015/382 for the subdivision of the site into two lots under Torrens Title subdivision at 6A Gipps Street, Bardwell valley be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
-

Attachments

1. Planning Assessment Report and Conditions
 2. Plan of Subdivision
-

Location Plan



BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2015/382
Date of Receipt:	29 April 2015
Property:	6 A Gipps Street, BARDWELL VALLEY NSW 2207 Lot 31 DP 735077
Owner:	Mr Hussein Hijazi
Applicant:	Mr Hussein Hijazi
Proposal:	Torrens title subdivision into two (2) lots
Recommendation:	Approved
No. of submissions:	No submissions received
Author:	Michael Maloof
Date of Report:	20 February 2017

Key Issues

The following key issues are identified in consideration of the subject application:

- The proposal fails to comply with the statutory provisions of Clause 4.1 Minimum Subdivision Lot Size of the RLEP 2011;
- The application is accompanied by a written clause 4.6 submission seeking to vary the minimum subdivision lot size under clause 4.1 of the RLEP 2011;
- The proposal complies with all other relevant provisions of the RLEP 2011 and RDCP 2011.

Recommendation

1. That Council support the variation to the minimum subdivision lot size as contained in clause 4.1 of the Rockdale Local Environmental Plan 2011 in accordance with the request under clause 4.6 submitted by the applicant.
2. That Development Application DA-2015/382 for the subdivision of the site into two lots under Torrens Title subdivision at 6A Gipps Street, Bardwell valley be **APPROVED** pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

Background

History

Council's records show that the following applications were previously lodged:

DA-2000/713 To erect an attached dual occupancy development on the site was approved as a deferred commencement consent by Council on 3 March 2000. The deferred commencement conditions related to stormwater and landscaping documentation and were satisfied on 17 April 2000. The development has been completed and occupied. A Final Occupation Certificate was issued by Council on 12 November 2003.

DA-2012/69 for Torrens title subdivision into two (2) lots was approved by Council on 20 January 2012. The consent lapsed on 20 January 2015.

DA-2015/382 was lodged with Council on 29 April 2015 for the subdivision of the site and is addressed in this report. The applicant was requested to provide additional information for DA-2015/382 in respect to the drainage of the site and vehicle manoeuvring and access to the existing garages. The applicant requested an extension of time to submit the information and submitted the requested information on 18 and 27 July 2016 and the remaining information on 21 November 2016.

Proposal

Council is in receipt of a development application DA-2015/382 at 6A Gipps Street Bardwell Valley, which seeks consent to carry out the Torrens Title subdivision of the site into two lots. The site is a battle axe lot and has a total area of approximately 706.5 sq.m. The proposed southern lot is 386 sq.m. and the northern lot is 320.5 sq.m.

Site location and context

The site is described as Lot 31 in DP 735077 and is known as 6A Gipps Street, Bardwell Valley. The site has a frontage of 3.05m. The rear boundary is 18.29m and the southern side boundary is 33.295m. On the site is a two storey attached dual occupancy development. Each dwelling is provided with a single garage.

The lot in front of the site comprises an attached dual occupancy development known as 6 Gipps Street Arncliffe. This development was approved under DA-2001/258 and subsequently a subdivision approval for the front lot was granted by Council under DA-2002/438.

Surrounding development is characterised by low and medium density residential developments.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

S.79C(1) - Matters for Consideration - General

S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.6 Subdivision - consent requirements	Yes	Yes - see discussion
4.1 Minimum subdivision lot size	Yes - see discussion	No - see discussion
Dual occupancy	Yes - see discussion	No - see discussion
4.6 Exceptions to development standards	Yes	Yes - see discussion
5.10 Heritage conservation	Yes	Yes - see discussion
6.7 Stormwater	Yes	Yes
6.12 Essential services	Yes	Yes

2.6 Subdivision - consent requirements

The proposal seeks consent to subdivide the property into two lots under Torrens Title and therefore complies with the requirements of section 2.6 of the RLEP 2011.

4.1 Minimum subdivision lot size

Dual occupancy

The application proposes Torrens Title Subdivision into two lots with one dwelling on each lot. Clause 4.1 (3B) states that consent may be granted for subdivision of a lot on which there is an existing dual occupancy, or on which a dual occupancy is proposed if the area of each resulting lot is equal to or greater than 350sqm, and each lot will have one dwelling.

The sizes of the resulting lots are 320.5m² and 386.0m², and there will be one dwelling on each new lot. Therefore, the proposal does not comply with the minimum subdivision lot size requirement under the RLEP 2011. The applicant has submitted a written request seeking to vary the minimum subdivision lot size under clause 4.6 of RLEP 2011. This variation has been addressed in the next section of this report.

4.6 Exceptions to development standards

Clause 4.6 allows a variation to a development standard subject to a written request by the applicant justifying the variation by demonstrating:

- (3)(a) that compliance with the standard is unreasonable or unnecessary in the circumstances of the case, and*
- (3)(b) that there are sufficient environmental planning grounds to justify the variation.*

In considering the applicant's submission, the consent authority must be satisfied that:

- (i) the applicant's written request is satisfactory in regards to addressing subclause (3) above, and*
- (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives of the relevant zone.*

- 5(a) The consent authority must also consider whether contravention of the development standard raises any matter of significance for State or Regional environmental planning, and*
- 5(b) the public benefit of maintaining the development standard.*

Development Standard to be Varied

The applicant has lodged an objection to the minimum subdivision lot size standard 4.1 under Clause 4.6. The proposed subdivision results in two lots which do not achieve the minimum 350sq/m under Clause 4.1 of RLEP 2011 and therefore, the applicant seeks to vary the development standard in accordance with Clause 4.6 of RLEP 2011.

The objectives of clause 4.1 of the RLEP 2011 are as follows:

- (a) to ensure that subdivision reflects and reinforces the predominant subdivision pattern of the area,*
- (b) to minimise any likely impact of subdivision, and development on subdivided land, on the amenity of neighbouring properties,*
- (c) to ensure that lot sizes and dimensions are able to accommodate development consistent with relevant development controls.*

Justification of the Variation

The applicant has submitted a detailed justification to the proposed variation to the minimum subdivision lot size. It states that the proposed variation:

- One of the lots is less than the minimum (350m²) and is deficient by 29.5m² which represents 8.4% of the required area
- The dual occupancy development was previously approved and constructed in 2000 which was compliant with the development controls at the time
- Consideration should be given to the date of previous approval rather than allowing the variation to take precedence
- The proposal involves the land subdivision of the site with no physical changes (no demolition or building work) and as such, will not result in any greater amenity impacts or adverse environmental effects than the previously approved dual occupancy development on the site.
- The residential use of the land will remain unchanged\

Council Comments:

The minimum lot size requirement applying to new lots in a dual occupancy development in clause 4.1(3B) is designed to achieve consistency with the minimum total lot size requirement of 700sq.m. This minimum lot size allows for high quality development to be achieved which allows for good amenity for residents and minimal impact on the surrounding environment. This is considered to have been achieved on this site with the two storey dual occupancy development complying with recent development controls relating to such development.

The proposed lot sizes and subdivision boundary between the two dwellings are consistent with the approved plans for the attached dual occupancy. Furthermore the proposed subdivision does not alter the physical relationship of the buildings to the site and adjacent sites, including changes in regards to private open space, landscaping and vehicular access. The position of the buildings on the site, proposed access and services have been designed to ensure that each lot can be held under separate ownership. The proposed subdivision does not result in additional impacts on the amenity of neighbouring properties nor is there a risk of creating a development with additional impacts as the dual occupancy buildings have been approved and constructed. The siting of the buildings on the site,

proposed access and services have been designed to ensure that each lot can be held under separate ownership. The objectives of the R3 Medium density residential zone have been met.

In assessing the variation, the objectives of clause 4.1 of the RLEP 2011 are considered to be satisfied, the dual occupancy development complies with all other requirements of the DCP (including FSR for each lot), the proposal has been designed to ensure a good amenity for future residents and the impacts on surrounding properties are not unreasonable.

Therefore, it is considered that the strict application of the numerical requirement is unreasonable and unnecessary in this instance and the proposal is in the public interest.

5.10 Heritage conservation

The proposed development is located in the vicinity of a heritage item at 40 John Street which is the Quarry (I87) and includes the rock face and reserve above. The proposed development will involve the subdivision of the land and will not include any physical changes to the development upon it. As such, the proposal is sympathetic to the heritage item in terms of its design with physical changes to the site or existing streetscape. In this regard, the proposed development does not affect the integrity or character of the heritage item.

S.79C(1)(a)(ii) - Provisions of any Draft EPI's

No relevant proposed instruments are applicable to this proposal.

S79C(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

The application is subject to Rockdale DCP 2011. A compliance table for the proposed development is provided below:

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.2 Heritage Conservation - Vicinity of Heritage Item	Yes	Yes - see discussion
4.1.4 Soil Management	Yes	Yes
5.1 Residential Subdivision	Yes	Yes - see discussion

4.1.2 Heritage Conservation - Vicinity of Heritage Item

The proposed development is in the vicinity of a heritage item located at 40 John Street which comprises a Quarry with rockface and reserve above. The proposed development is sympathetic to the heritage item in terms of its design with no physical changes to the built form and streetscape. In this regard, the proposed development does not affect the integrity or character of the heritage item.

Therefore the qualities that makes the heritage item and it's setting significant will not be diminished, dominated or overwhelmed by the proposed development.

5.1 Residential Subdivision

The proposal will involve Torrens Title subdivision of the site into two (2) lots in accordance with the design of the previously approved dual occupancy dwellings. In this regard, the subdivision boundary is located between the two dwellings allowing the built form to follow the line of improvements within the

existing street block. The proposed subdivision boundary ensures that each dwelling can be held under separate ownership and will include the battle axe design for the site with a combined frontage of 3.05m to Gipps Street, each with a 1.525m frontage for each lot. The two major requirements under DCP are identified as the minimum site area of 350 sq.m and proposed floor space ratio of 0.6:1 for each lot. The proposal will comply with the FSR control but does not comply with the minimum subdivision lot size as outlined previously in this report. Notwithstanding, the proposed subdivision boundary represents a suitable design and layout for the subject site that is consistent with the previous approval and existing street pattern.

The proposal will result in sufficient curtilage of the site that is capable of accommodating landscaping elements that will screen and soften the dual occupancy development and contain sufficient curtilage for vehicular access to and from the site. Accordingly, the current proposal is considered acceptable in respect to the proposed subdivision under Torrens Title Subdivision.

S.79C(1)(a)(iv) - Provisions of regulations

Clauses 92-94 of the Regulations outline the matters to be considered in the assessment of a development application. Clause 92 requires the consent authority to consider the provisions of *AS 2601:1991 - Demolition of Structures* when demolition of a building is involved. In this regard the proposal involves subdivision and does not include any demolition.

All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

S.79C(1)(b) - Likely Impacts of Development

The proposal involves the subdivision of land is not likely to result in any significant adverse amenity impacts on the site or adjoining properties. The lots contain easements for drainage and services and cross rights of way to allow pedestrian and vehicular access to and from the site in a safe manner that will not reduce pedestrian safety or the free flow of traffic within Gipps Street. The proposed subdivision will allow separate ownership of each dwelling on the site. Accordingly, the proposal is not likely to result in any significant adverse amenity impacts and is acceptable in this regard.

S.79C(1)(c) - Suitability of the site

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

S.79C(1)(d) - Public submissions

The proposed development was not required to be notified in accordance with the provisions of the Rockdale DCP 2011.

S.79C(1)(e) - Public interest

The proposed development is considered satisfactory having regard to the objectives and requirements of Rockdale Local Environmental Plan 2011 and Development Control Plan 2011. Impacts on adjoining properties have been considered and addressed. As such it is considered that the proposed development is in the public interest.

Schedule 1 - Draft Conditions of consent

General Conditions

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. The term of this consent is limited to a period of five (5) years from the date of approval. The consent will lapse if the development does not commence within this time.
2. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Plan/Dwg No.	Drawn by	Dated	Received by Council
Plan of Subdivision, sheet 1 of 1, surveyors reference 38096 CHECKLIST (15/41598)	Stewart John Dixon	19/11/2001	29/04/2015

3. The dwellings located on the site shall be known as 1/6A and 2/6A Gipps Street Bardwell Valley.

Prior to issue of subdivision certificate

The following conditions must be complied with prior to the issue of the Subdivision Certificate or the Strata Certificate.

4. An 88B Instrument is to be provided for the right of carriageway and is to be lodged with the Subdivision Certificate.
5. Reciprocal rights of carriageway shall be provided over both allotments to allow manoeuvring into and out of the garages and access to each lot. The right of way shall be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Rockdale Council.

These provisions are to be put into effect prior to release of the Subdivision Certificate.

6. The subdivision is to occur in accordance with Development Consent No. DA-2000/713, DA-2015/382 and any subsequent Section 96 modifications.
7. A Subdivision Certificate and four (4) copies of the plans for the endorsement of the General Manager shall be submitted to Council prior to lodgment with the Land and Property Information office. If applicable, an original and four (4) copies of the 88B Instrument are to be submitted.
8. The submission and approval of a subdivision certificate application. In this regard, a fee is payable in accordance with Council's current adopted Fees and Charges.
9. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the Subdivision/Strata Certificate.

10. The new lots created are to be numbered lot 700 and lot 701.
11. All existing and proposed services on the property shall be shown on a plan, and shall be submitted to Council. This includes electricity, gas, water, sewer, stormwater and telephone services. Where any service crosses one lot but benefits another lot, it is to be covered by an easement. The service easement is to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Rockdale City Council. These provisions are to be put into effect prior to the release of the Subdivision/Strata Certificate.
12. A positive covenant shall be provided over the on-site detention system. A Section 88B Instrument and four copies shall be lodged with the Subdivision Certificate.
13. Council will not issue the Subdivision Certificate unless the following has been provided to Council:
 - WorksAsExecuted Plan for Stormwater Drainage System
 - Engineer's Compliance certificate for Stormwater Drainage System & work as executed drawing
 - Final Occupation Certificate
 - Utility Service Plan
 - Original of Section 73 Compliance Certificate referring to Subdivision – (Sydney Water Act 1994)
 - Landscape certification (if Council not appointed as PCA)
 - Administration Sheet and 88B instruments prepared by a qualified surveyor

Development consent advice

- a. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

Council Meeting

8/03/2017

Item No	9.17
Property	17 Somerville Street, Arncliffe
Proposal	Torrens title subdivision of dual occupancy creating two lots
Cost of Development	\$ 10,000
Report by	Luis Melim, Manager – Development Services
Application No	DA-2017/188

Council Resolution

Minute 2017/041

Resolved by the Administrator:

1. That Council support the variation to the minimum subdivision lot size provision contained in Clause 4.1(3B) of the Rockdale Local Environmental Plan 2011 (RLEP2011) in accordance with the clause 4.6 justification submitted by the applicant.
 2. That the development application DA-2017/188 for the Torrens title subdivision of a dual occupancy creating two lots at 17 Somerville Street , ARNCLIFFE be APPROVED pursuant to section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this Report.
-

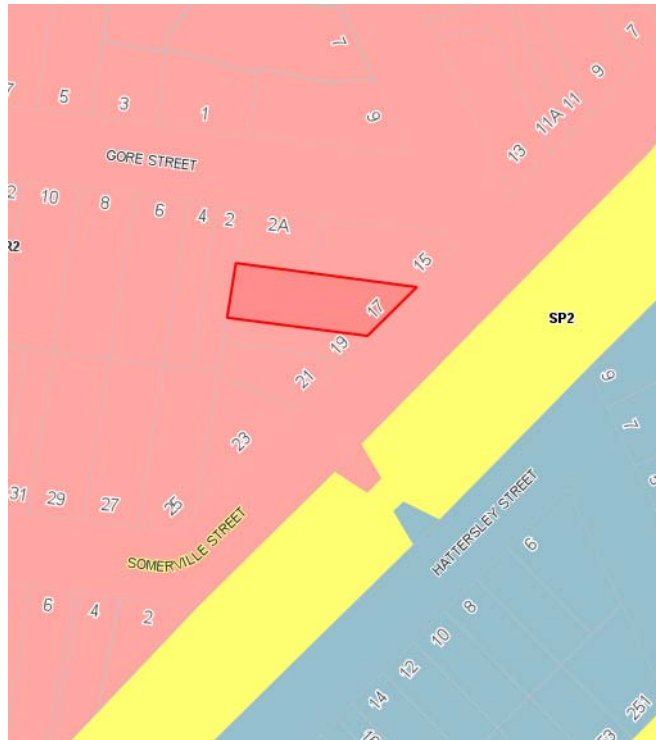
Officer Recommendation

1. That Council support the variation to the minimum subdivision lot size provision contained in Clause 4.1(3B) of the Rockdale Local Environmental Plan 2011 (RLEP2011) in accordance with the clause 4.6 justification submitted by the applicant.
 2. That the development application DA-2017/188 for the Torrens title subdivision of a dual occupancy creating two lots at 17 Somerville Street , ARNCLIFFE be APPROVED pursuant to section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this Report.
-

Attachments

- 1 Planning Assessment Report
 - 2 Site Plan
-

Location Plan



BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/188
Date of Receipt:	28 November 2016
Property:	17 Somerville Street, ARNCLIFFE NSW 2205 Lot 1 DP 33952
Owner:	Mr Dylan Sidney Dalziel Irvine
Applicant:	M Cubed Design
Proposal:	Torrens title subdivision of dual occupancy creating two lots
Recommendation:	Approved
No. of submissions:	Nil
Author:	Adam Iskander
Date of Report:	14 February 2017

Key Issues

The key issues related to this application are:

- Non-compliance with minimum site area for subdivision.

Recommendation

1. That Council support the variation to the minimum subdivision lot size provision contained in Clause 4.1(3B) of the Rockdale Local Environmental Plan 2011 (RLEP2011) in accordance with the clause 4.6 justification submitted by the applicant.

2. That the development application DA-2017/188 for the Torrens title subdivision of a dual occupancy creating two lots at 17 Somerville Street, ARNCLIFFE be APPROVED pursuant to section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this Report.

Background

History

Council's records show that the following application was previously lodged:

- DA- 2014 for the demolition of existing structures and construction of two storey attached dual

occupancy with front brick fence, was approved on 9 October 2014.

Proposal

Council is in receipt of a development application DA-2017/188 at 17 Somerville Street, Arncliffe which seeks consent to carry out Torrens title subdivision of dual occupancy creating two new lots. The new lots are identified as Lot 701 and 702 with site areas of 342.70sqm.

Site location and context

The subject site is known as Lot 1 in DP 33952, 17 Somerville Street, ARNCLIFFE NSW 2205. The subject site is located on the western side of Somerville Street and is an irregular shaped lot with an angled frontage to Somerville Street of 19.297m, a rear boundary dimension of 15.24m, a northern side boundary dimension of 50.683m and a southern side boundary dimension of 39.307m, with a site area of 685.4m². Existing on the site is a recently constructed two storey attached dual-occupancy. The site contains no significant vegetation. Surrounding development is residential and generally comprises detached single storey dwellings, with the railway line on the opposite side of Somerville Street.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

S.79C(1) - Matters for Consideration - General

S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R2 Low Density Residential	Yes	Yes - see discussion
2.6 Subdivision - consent requirements	Yes	Yes
4.1 Minimum subdivision lot size	Yes	No - see discussion
Dual occupancy	Yes	Yes
4.6 Exceptions to development standards	Yes - see discussion	Yes - see discussion

2.3 Zone R2 Low Density Residential

The subject site is zoned R2 - Low Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as Torrens title subdivision of a dual occupancy which constitutes a permissible development only with development consent. The objectives of the zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.

The proposed development is consistent with the objectives of the zone.

4.1 Minimum subdivision lot size

Torrens Title Subdivision of the attached dual occupancy development will result in the following proposed Lots:

Lot 700 - 342.70sqm

Lot 701 - 342.70sqm

The proposal fails to satisfy the minimum numerical requirement of 350sqm for site area for Lot 700 and 701. Accordingly, the application is accompanied by a written Clause 4.6 justification and is addressed below.

4.6 Exceptions to development standards

The proposed development seeks consent for the Torrens Title Subdivision of an attached dual occupancy resulting in two new lots with site areas of 342.70sqm . The two new lots identified as 700 and 701 are below the minimum subdivision lot size provisions as required by Clause 4.1(3B) of the RLEP 2011 which is 350sqm. The deficiency in minimum site area is by 7.3sqm for each new lot or 2.1%.

The objectives of Clause 4.6 are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development;
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

With regards to the above, the consent authority is required to consider a written request from the applicant justifying a variation to the standard by demonstrating:

- (3)(a) that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, and
- (3)(b) that there are sufficient planning grounds to justify contravening the development standard.

Further, clause 4.6(4) requires that development consent must not be granted for development that contravenes a standard unless:

- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) Council has the assumed concurrence of the Director-General.

Clause 4.1 - Minimum subdivision lot sizes

The objectives of Clause 4.1 are as follows:

- (a) to ensure that subdivision reflects and reinforces the predominant subdivision pattern of the area.
- (b) to minimise any likely impact of subdivision, and development on subdivided land, on the amenity of neighbouring properties.
- (c) to ensure that lot sizes and dimensions are able to accommodate development consistent with the relevant controls.

The application is accompanied by a written Clause 4.6 submission seeking to contravene the development standard imposed by the subject Clause. Within the justification, the applicant's statement regarding compliance with the subject Clause is summarised as follows:

- The proposal is generally compliant with the requirements and controls of Rockdale LEP 2011 and Rockdale DCP 2011 with the exception of a minor non-compliance of 7.3m² for each dwelling relating to the minimum lot size requirement which equates to approximately less than 2.1%. The proposal complies with the other applicable development standards on the site.
- The proposed subdivision does not change the level of impact of the approved and constructed dual occupancy on the site on the adjoining properties in terms of privacy, amenity and shadow impacts.
- The proposed subdivision is in keeping with the recently subdivided allotment further to the north-east and with the adjoining site at 19 Somerville Street having a similar allotment size to what is being proposed.
- The proposed variation will not detract from the streetscape of Somerville Street and will not impact on the bulk and scale of the development from the street or the adjoining dwellings at the rear.
- The subdivision of each dwelling is of a sufficient size to serve its intended purpose and usage. The approved dual occupancy demonstrated compliance with the landscape, private open space and required car parking areas.
- The proposed shortfall of 7.3m² per lot is a minor variation to the overall requirement and will not compromise the internal amenity of the development.
- Although the proposal departs from the numerical standard, the proposal satisfies the objectives of the standard and hence there is scope on merit grounds in permitting the numerical departure.
- Council has already accepted development (subdivision of dual occupancies) that have sought variations to the minimum subdivision lot size development standard as being of an appropriate scale and built form. In doing so, the development standard has been effectively abandoned or destroyed through the granting of consents for development on other sites that also do not strictly comply with the development standard;

Council comment:

The above objectives relates to the subdivision of a lot within Bayside Council and compliance with the minimum lot size required under clause 4.1(3) as reflected in the associated Lot Size Map. As subdivision is proposed, Clause 4.1(3B) is relevant. The minimum lot size required in accordance with this Clause is 350sqm, and the resultant lot sizes for each of the two proposed lots is 342.70 sqm, which is 7.3sqm or 2.1% below the development standard.

The proposal satisfies the Objectives of the Clause for Minimum subdivision lot size where it ensures the subdivision has no impacts on the amenity of neighbouring properties and ensures that the semi-detached dual occupancy is consistent with the relevant development controls.

The recent Land Environmental Court Case 'Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90' ('Four2Five') requires any variations to the standards to demonstrate something more than just achieving the Objectives of the standard. The applicant has demonstrated that Council has previously abandoned its controls for varying the minimum site area for a dual occupancy.

The variation to the minimum subdivision lot size standard satisfies the 'five part test' established by the NSW Land and Environmental Court where the objectives of the standard have been achieved and the standard has been virtually abandoned by Council in previous development applications in this specific circumstance.

The requirement in cl4.6(3)(b) is to justify that there are sufficient environmental planning grounds for the variation particular to the circumstances of the proposed development. These planning grounds are demonstrated in the proposed design and are sufficiently argued in the 4.6 variation submission. The applicant has also demonstrated that compliance with the development standard is unreasonable and unnecessary in this circumstance.

The applicant's request to vary development standard Clause 4.1 (3B) (a), is also consistent with the objectives in Clause 4.6 (Exceptions to development standards) as well as the objectives in development standards for the R2 Residential Zone area.

Approval of the proposal would not create an undesirable precedent and is in the public interest. As such the proposed variation to subdivision is supported in this instance.

S.79C(1)(a)(ii) - Provisions of any Draft EPI's

At the time of lodgement of the subject development application, the Rockdale Local Environmental Plan, 2011 (RLEP 2011) was in force while a draft housekeeping amendment to the RLEP 2011 has been publically exhibited. Pursuant to the matters for consideration contained within Section 79C(1) of the Environmental Planning and Assessment Act, 1979 (the Act), the provisions contained within each of the applicable EPIs are to be considered in the assessment of the subject development application.

The savings and transitional provisions contained within Clause 1.8A of the RLEP 2011 has the effect of limiting consideration of the provisions contained within the RLEP 2011 to only those applications lodged on or after this date. As such, the application has been considered against the provisions contained within the exhibited draft, although it has little determinative weight. The proposed development, namely Torrens Title subdivision, remains consistent with the aims and objectives of the instrument. Approval of the proposed development would not be inconsistent with the intent and purpose of the instrument and is acceptable in this regard.

S79C(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

The application is subject to Rockdale DCP 2011. A compliance table for the proposed development is provided below:

Relevant clauses	Compliance with objectives	Compliance with standard/provision
5.1 Residential Subdivision	Yes - see discussion	No - see discussion

5.1 Residential Subdivision

The proposal is for subdivision of a lot which has an existing dual occupancy on site. Although the subject site does not satisfy the minimum lot size requirement of 700sqm, the subdivision is assessed as having minimal adverse impacts onto the environment and will have minimal impacts onto the adjoining neighbours.

The site has a frontage of 19.29m with a depth greater than 25m. Each new lot will have a frontage of greater than the minimum requirement of 6m. Both dwellings have vehicular access fronting Somerville Street. The new allotments will have adequate provisions for infrastructure services. The application satisfies the residential subdivision requirements under Part 5.1 of RDCP 2011.

S.79C(1)(c) - Suitability of the site

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

S.79C(1)(d) - Public submissions

The proposed development did not require notification in accordance with the provisions of Rockdale DCP 2011.

S.79C(1)(e) - Public interest

The proposed development is considered satisfactory having regard to the objectives and requirements of Rockdale Local Environmental Plan 2011 and Development Control Plan 2011. Impacts on adjoining properties have been considered and addressed. As such it is considered that the proposed development is in the public interest.

Schedule 1 - Draft Conditions of consent

General Conditions

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. The term of this consent is limited to a period of five (5) years from the date of the original approval. The consent will lapse if the development does not commence within this time.
2. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Plan/Dwg No.	Drawn by	Dated	Received by Council
Sheet 1/1 Subdivision Plan	Mounzer Mortada	25 November 2016	28 November 2016

3. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.
4. The dwelling located on the northern part of the site shall be known as 17 Somerville Street and the dwelling located on the southern part of the site shall be known as 17A Somerville Street

Prior to issue of subdivision certificate

The following conditions must be complied with prior to the issue of the Subdivision Certificate or the Strata Certificate.

5. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

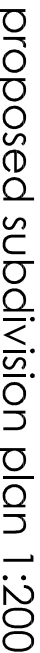
The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the Subdivision/Strata Certificate.

6. All existing and proposed services on the property shall be shown on a plan, and shall be submitted to Council. This includes electricity, gas, water, sewer, stormwater and telephone services. Where any service crosses one lot but benefits another lot, it is to be covered by an easement. The service easement is to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council. These provisions are to be put into effect prior to the release of the Subdivision/Strata Certificate.
7. Council will not issue the Subdivision Certificate unless the following has been provided to Council :
 - Works-As-Executed Plan for Stormwater Drainage System
 - Engineer's Compliance certificate for Stormwater Drainage System

- Final Occupation Certificate
- Utility Service Plan
- Original of Section 73 Compliance Certificate referring to Subdivision – (Sydney Water Act 1994)
- Landscape certification (if Council not appointed as PCA)
- Administration Sheet and 88B instruments prepared by a qualified surveyor
- Proof of positive covenant for detention/retention system lodgement with LPI
- Proof of positive covenant for flow through fencing system lodgement with LPI

Development consent advice

- a. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- b. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- c. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.



mounzer mortada
b. architecture (firms), dip. arch., cert 4 arch.
cert 4 building studies, ABSA accredited #20858
m: 0405 125 350
e: mortada@live.com.au
w: mcubed.com.au



Council Meeting

8/03/2017

Item No	9.18
Property	15A Wolli Creek Road, Banksia (Gardiner Park)
Proposal	Gardiner Park – Addition of six(6) light poles
Cost of Development	\$120,000
Report by	Creative Planning Solutions Pty Ltd
Application No	DA-2017/156

Council Resolution

Minute 2017/042

Resolved by the Administrator:

1. That Development Application DA-2017/156 for the installation of six (6) light poles at Gardiner Park, 15A Wolli Creek Road Banksia be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to conditions attached to this report.
 2. That the objectors be advised of Council's decision.
-

Officer Recommendation

1. That Development Application DA-2017/156 for the installation of six (6) light poles at Gardiner Park, 15A Wolli Creek Road Banksia be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to conditions attached to this report.
 2. That the objectors be advised of Council's decision.
-

Attachments

1. Planning Assessment Report
 2. Draft Notice of Determination
 3. Site Plan
-

BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/156
Date of Receipt:	1 November 2016
Property:	15A Wolli Creek Road, BANKSIA 2216 (Gardiner Park) Lot 661 in Deposited Plan 827186
Owner:	Rockdale City Council
Applicant:	Banksia Tigers Football Club
Proposal:	Addition of six (6) light poles
Recommendation:	Approval subject to recommended conditions of consent
No. of Submissions:	Three (3) submissions have been received following notification of the DA in accordance with the provisions of the <i>Rockdale Development Control Plan 2011</i> .
Author:	Patrick Waite - Creative Planning Solutions Pty Limited
Date of Report:	20 February 2017

Key Issues

The key issues with the proposal are as follows:

- **Council owned land** - The application has been assessed by an external consultant as the proposal is located on Council owned land.
- **Light spill** – The proposal has the potential to result in obtrusive light spillage impacting on sensitive receivers such as the adjoining residential areas.

Subject to the appropriate installation of the light fixtures, a report submitted by the applicant has demonstrated the proposed development will not result in unacceptable obtrusive light impacts on the adjoining sensitive receivers, as required by the *Australian Standards for Control of the obtrusive effects of outdoor lighting* (AS 4282-1997). A condition will also be imposed to ensure that the proposed lighting is installed in accordance AS 4282-1997, and that the lights be switched off automatically at 9:30pm each time they are in use.

- **Acoustic impacts** – The proposal will result in additional areas of the sports field being able to be utilised during night-time training, and as such has the potential to result in noise impacts on adjoining properties. The development application (DA) was accompanied by an acoustic assessment which concluded that the expected noise

impacts are acceptable, based on a maximum 100 people using the field at once. In this regard, a condition of consent will be imposed to ensure that the no more than 100 people is permitted to use the sports field at any one time.

- **Heritage** – Gardiner Park is identified as an item of local heritage significance pursuant to the *Rockdale Local Environmental Plan 2011*. Following a review by Council's Heritage Officer, the proposal can be supported subject to conditions of consent.

Recommendation

1. That this Development Application (DA-2017/50) be **APPROVED** pursuant to Section 80(1)(a) of the *Environmental Planning and Assessment Act 1979* and subject to conditions attached to this report.
2. That the objectors be advised of Council's determination.

Background

History

Council's records show that the following applications have previously been lodged on subject site:

- DA-2007/506 - Installation of high metal poles, fitted with flood lights – Withdrawn on 12 September 2007.
- DA-2009/37 - Installation of two (2) 15m high metal poles with flood lights – Approved on 1 October 2008.
- DA-2016/14 - Demolition of existing shelter and club house attached to ancillary building – Approved on 26 October 2015.

The subject DA was lodged on 1 November 2016.

The application was notified in accordance with the Part 8 of the *Rockdale Development Control Plan 2011*, between 10 November 2016 and 30 November 2016.

In response to the notification, three (3) submissions objecting to the proposal were received. In particular, objections were raised in relation to the following:

- Inadequate information submitted with the DA,
- Noise impacts,
- Traffic impact,
- Lighting spill impacts,
- The amount of time the lights would be in use,
- Rubbish and food,
- Grass remediation works,
- Security,
- The proposal offends the existing Plan of Management for the Park.

A request for additional information was sent to the applicant on 18 November 2016, as the DA was found contain insufficient information. To appropriately consider the environmental impacts of the proposal, the following additional information was requested:

- The submission of a Light Spill report,
- The submission of an Acoustic impact report,
- The submission of a Traffic/Parking report,
- Details of any impacts to nearby trees,
- An accurate Site Plan;
- Appropriate Heritage consideration, and
- An amended Statement of Environmental Effects (SEE) including critical details of the current operation of the sports field, precise location of existing lights, and precise location of the proposed lights.

A teleconference meeting between Council officers, the applicant and the consultant town planner (CPS) was held on 12 December 2016. The purpose of this teleconference meeting was to provide the applicant with further details as to what was expected from the applicant in terms of additional information for the assessment of the DA. The meeting essentially resolved that the applicant would take leave to provide Council with sufficient information to enable completion of the assessment.

The applicant submitted an amended SEE and Site Plan on 21 December 2016.

However, subject to a review, the amended SEE and Site Plan continued to provide for inadequate or incomplete information. The amended SEE did not include adequate details of the club's current operation and use of Gardiner Park's sports field, and provided inconsistent advice regarding anticipated usage of the sports field after the lighting poles have been erected. The amended Site Plan did not delineate between the existing and new lighting poles.

A Lighting Design report was submitted to Council on 28 December 2016. Subject to a review, the Lighting Design report did not demonstrate that the requirements of the *Australian Standard (AS) 4282-1997 for the Control of the Obtrusive Effects of Outdoor Lighting* on adjoining residential properties could be met by the proposal. Furthermore the Lighting Design report was based on inconsistent light pole heights to that identified in the applicant's DA.

In response to the information received on 21 and 28 December 2016, a second additional information request was prepared. The request letter offered the applicant a second opportunity to address the inadequacies of the DA, and was sent on 4 January 2017. The letter requested the following inadequacies to be addressed:

- A light spill report addressing the requirements of AS 4282-1997,
- Updated Site Plan illustrating the exact location of the all existing light poles and all proposed light poles,
- Heritage Impact Statement or assessment, and
- Submission of an Acoustic report and Traffic/Parking report.

In response to the receipt of the second additional information letter, the applicant requested a further meeting with Council and the consultant planner to again discuss the necessity of

submitting an Acoustic and Traffic and Parking report. The meeting took place at Council's offices on 11 January 2017.

In the meeting the applicant argued that the additional sports field lighting would not result in an increase in the number of users of the sports field at Gardiner Park over that currently experienced. The applicant further argued that the proposal would instead permit training to occur in areas that were previously not illuminated and thus allow a more efficient use of the entire sports field during evening training, and also alleviate wear in the single area of the sports field currently illuminated.

In response to the arguments made by the applicant, it was accepted that should the number of sports field users remain the same, the impact on traffic/parking should furthermore remain the same, and as such a Traffic/Parking report would not need to be submitted.

However, as areas of Gardiner Park will be modified for their evening use from the additional luminaries, it was likely that noise impacts will also be modified and potentially result in negative impacts to adjoining residential properties near the newly illuminated areas. In this regard, the submission of an Acoustic Report continued to be requested in order to quantify and qualify this impact.

In response to ongoing communication between Council and the applicant's electrical engineer, updated Lighting Design reports were received on 20, 23 and 26 January 2017.

At the applicant's request, a third meeting was requested by the applicant to further discuss the requirement of an Acoustic report, amended Site Plan and Heritage Assessment. The meeting took place at Council's offices on 1 February 2017. At the conclusion of the meeting the applicant once again agreed to provide Council with an Acoustic Report or advice from an acoustic engineer stating that no acoustic impacts will be created as a result of the proposed lighting. A Heritage Impact Statement was once more requested.

An acoustic report was provided to Council on 7 February 2017, and a Heritage Impact Statement was provided on 13 February 2017.

The report herein is based on this additional information submitted to Council by the applicant for completion of the assessment.

Proposal

The proposed development seeks to erect six (6) additional light masts for the purposes of illuminating additional areas of the sports field at Gardiner Park for evening-time use.

The specifics of the proposal are as follows:

- **Heights** – Six (6) light poles, each 15 metres in height.
- **Light fittings** – Each light pole will have two (2) light fittings. A Pierlight GIGA 2000W metal halide light will be attached to each light fitting. The light fittings will add about 200mm to the height of the poles.
- **Footings** – Each light mast shall be connected to a pad footing that is to be constructed in accordance with the appropriate Australian Standards and technical design criteria. This will include minor earthworks.
- **Location** – Four (4) light poles will be located along the north-west boundary, one (1) light pole will be in the middle of the north-east boundary, and one (1) will be located on

the south-east boundary towards eastern end of the sports field. Refer to **Figure 1** for diagrammatic representation of the light pole locations.

- **Trenching** – The primary trenching and associated electrical pits have previously been completed and are currently in place. The proposal will include secondary trenching from the existing electrical pits to the proposed light poles. Refer to **Figure 1** for details of these locations.
- **Training times** – Training occurs Monday to Thursday (inclusive) and concludes at 9.30pm. However, the submitted Statement of Environmental Effects suggests that with the additional lighting training can conclude at 8.30pm on Mondays, Tuesdays and Fridays.

Note. In accordance with the current operation of the park, Council has full control of when the lights turn on and off via a timer.

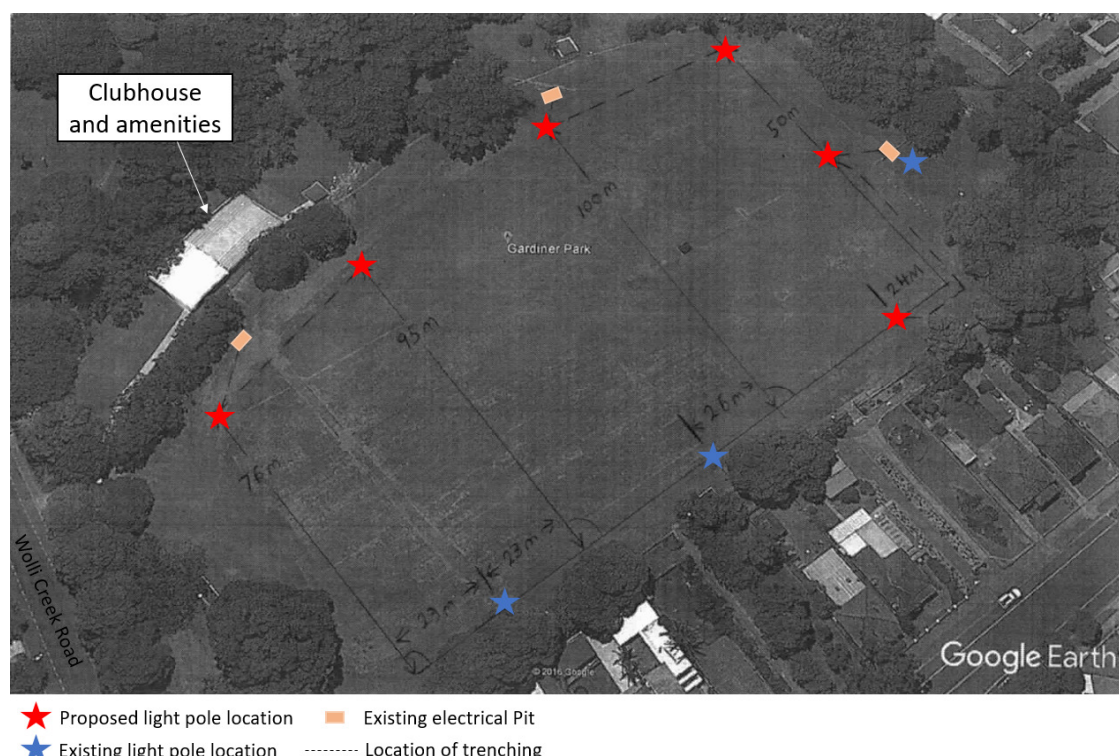


Figure 1 – Aerial image of Gardiner Park, illustrating six (6) proposed light pole locations, three (3) existing light poles, existing electrical pit locations, and trenching.

Source: Submitted Site Plan with DA-2014/156, as adapted by CPS for diagrammatic purposes.

Site location and context

Gardiner Park is located at 15A Wolli Creek, Banksia. The majority of the park is on land formally recognised as, Lot 661 in Deposited Plan 827186.

The subject site is trapezoidal in shape occupying an area of about 4.29 hectares, and bound by Wolli Creek Road, and then properties fronting Atkinson Street, Knight Street, and Gardener Avenue. Atkinson Lane shares a small boundary with the north-east portion of the park. The park has a principal frontage to the northern side of Wolli Creek Road and is primarily adjoined by low density residential areas along the three (3) remaining boundaries. Refer to **Figure 2** for an aerial image of the park and adjoining boundary land uses.

Existing development on the subject site includes:

- a recently constructed clubhouse and amenity block located to the north-west,
- pedestrian lighting illuminating the pedestrian path to the north of the park and further embellished by existing trees with connecting access from Atkinson Lane to Wollie Creek Road,
- three (3) x 15-metre-high light poles with attached lights,
- ancillary pedestrian benches located around the periphery of the sports field, and
- a playground located to the south-east of the park.

The primary entrance to the sports park is provided along Wollie Creek Road, and two (2) secondary entrances in the form of public thoroughfares are provided in between residential allotments along Gardiner Avenue.

Rockdale's Plan of Management (PoM) for sports fields within the Rockdale local government area identifies that the sports field of Gardiner Park has an area of about 2.2 hectares and is used in summer for cricket and in winter for soccer. The PoM further details that future permitted uses include sports field amenities.



Figure 2 - Aerial image of the subject site – Gardiner Park
Source: maps.six.nsw.gov.au, as adapted by CPS Planning

The park contains two (2) sandstone cliff walls on the northern and eastern perimeters, which are largely concealed by existing mature trees, and one (1) low line sandstone retaining wall along the south-eastern perimeter.

Gardiner Park is classified as a local Heritage Item under the *Rockdale Local Environmental Plan 2011* (RELPL), with its heritage significance being ascribed to the historical use of the site as a quarry and later depression relief works.

In terms of public transport, Banksia Train Station is located only 400m directly east of the park walking along Bowmer Street. The nearest bus stops are located adjacent to the park at

the Wolli Creek Road and Oswald Street junction, and also further north on Wolli Creek Road near Forest Road.

The local area surrounding the park is indicative of an established low density residential neighbourhood.



Site photo 1: Wolli Creek Road pedestrian access.
Source: CPS Site Inspection



Site photo 2: View of the south-eastern façade of the clubhouse and amenities block
Source: CPS Site Inspection



Site photo 3: View of north side of the park partially showing sandstone cliff and pathway in background
Source: CPS Site Inspection



Site photo 4: View of the east side of the park showing existing light pole
Source: CPS Site Inspection



Site photo 5: View of south side (north end) of the park showing sports seating bench
Source: CPS Site Inspection



Site photo 6: View of south side (south end) of park showing two (2) existing lighting poles with lights.
Source: CPS Site Inspection



Site photo 7: View of those dwellings fronting Gardiner Ave and their rear boundary to the park
Source: CPS Site Inspection



Site photo 8: View of those dwellings fronting Atkinson St and their rear boundary to the park
Source: CPS Site Inspection



Site photo 11: Gardiner Road entrance to the park
Source: CPS Site Inspection

Referrals

The DA was referred to the following departments.

INTERNAL

Heritage

Gardiner Park is identified as an item of local heritage under the RLEP, and as such the proposal was referred to Council's Heritage Officer in November 2016 and again in February 2017 following the applicant's response to the receipt of additional information.

Council's Heritage Officer offered the following comments in response to the November referral:

- *The site plan provided does not provide an accurate description of the location and type of existing infrastructure, in particular existing lights.*
- *The application fails to identify which lights are to be replaced by the new proposed lights.*
- *No heritage impact assessment has been made of the proposed development.*
- *The paragraph in the Statement of Environmental Effects does not adequately address the impact of the light poles and the additional light upon the heritage significance of Gardiner Park. The heritage impact assessment should refer to the Conservation Management Plan for the Park and check whether the proposal complies with its policies.*

Subject to the receipt of additional information, including the Heritage Impact Statement, Council's Heritage Officer offered the following comments in the February referral:

Light pole BH7 as shown on Borehole Location Plan by EIAustralia dated 12-09-16 will have an adverse heritage impact because is located at the end of the pathway into the park and will be highly visible and obstruct key views into the park. This pole should be deleted.

Proposal is supported subject to the following:

- 1. Light pole BH7 must be deleted from the plans.*
- 2. Installation of light poles must not damage sandstone retaining walls or rock shelves.*

Council's Heritage Officer was subsequently made aware that revised Site Plans and diagrams were submitted with the application, for which the officer offered the following comments:

Heritage Response to new plan:

The plan provided shows only six light poles with no pole in location of BH7. This will reduce the heritage impact of the proposal. There will still be a proliferation of light poles in the park however their impact will be minimised by the difference in height between the proposed spot lighting and the existing area lighting.

Accordingly, the proposal is supported from a heritage perspective subject to the following conditions of consent:

1. *Installation of light poles must not damage sandstone retaining walls or rock shelves.*

Environmental Health

The subject site is identified as being potential contaminated because of previous extractive industrial activities (quarry) having occurred on the site.

Council's Environmental Health Officer has reviewed the proposal and does not object to the proposal subject to the imposition of the (2) following conditions of consent, as follows:

Contaminated Land - Health & Safety Plan

1. *A Site Health & Safety Plan shall be prepared prior to the commencement of remediation works by a person competent to do so. All works shall be carried out in accordance with this plan. This plan shall include:*
 - *hazard identification and control*
 - *site security*
 - *personal protective equipment*
 - *work zones and decontamination procedures*
 - *contingency plans and incident reporting*
 - *environmental monitoring.*

Off-Site Disposal of Soil (General)

2. *Any soil disposed of off-site shall be classified in accordance with the procedures in the NSW Environment Protection Authority's Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes (1999).*

Building Surveyor

The proposal was referred to Council's Building Surveyor for comment, who confirmed that the proposal is classified as a 10b structure under the BCA and that no objection is raised.

EXTERNAL

Sydney Airport

The proposed development was referred to Sydney Airport as the development would penetrate the 52 metres AHD Obstacle Limitation Surface of Kingsford Smith Airport.

Council received a Notice to Proponent Property Development from Sydney Airport advising that no objection is raised to the erection of the development to a maximum height of 45 metres AHD.

Compliance with the response received by Sydney Airport has been included within the attached draft conditions of consent. This would appear achievable given the approximate ground level of the park being between 20-25 metres AHD, and the light poles being 15m in height.

The referral further advised that should the use of cranes be required, separate approval will need to be obtained prior to any commitment to construct. This has further been noted in the attached draft conditions of consent.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

S.79C(1) - Matters for Consideration - General

S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy No 55 – Remediation of Land

The subject site is identified in Council's records as being potentially contaminated landfill. Under a previous development application, DA-2016/14 which sought consent for the demolition of a shelter and club house, a Limited Contamination Assessment prepared by SESL Australia (dated July 2015) was submitted in favour of the subject site. The assessment concluded the following:

Based on the results of this limited soil contamination assessment, SESL Australia considers the site suitable for continued use as a public recreational area, and that the soils on-site are not of concern during the proposed demolition works.

It should be noted that if excavation works below the soil surface is proposed for the site additional investigation works should be undertaken to determine the contamination status of the site.

Council's Environmental Health Officer has considered impacts of the proposal on the potentially contaminated nature of the land. Subject to the health officer's review of the proposal, no objection was raised should the following be satisfied:

1. Preparation of a Health and Safety Plan prior to any works commencing, and
2. The disposal of any soils off-site be done in accordance with procedures in the NSW Environment Protection Authority's Environmental Guidelines: Assessment, Classification & Management of Liquid & Non-Liquid Wastes (1999).

It is considered that the Health and Safety Plan satisfies the additional investigation recommendation provided in the Limited Contamination Assessment prepared by SESL Australia.

In this regard, the subject site is considered to be suitable for the proposed development subject to the imposition of recommended conditions of consent.

Rockdale Local Environmental Plan 2011

The proposal has been considered against the relevant provisions of the RLEP, as confirmed in the following:

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone RE1 Public Recreation	Yes	Yes - see discussion
4.3 Height of buildings	Yes	Yes – see discussion
4.4 Floor space ratio - Residential zones	N/A	N/A
5.9 Preservation of trees or vegetation	Yes	Yes – see discussion
5.10 Heritage conservation	Yes	Yes – see discussion
6.1 Acid Sulfate Soil - Class 5	Yes	Yes – see discussion
6.2 Earthworks	Yes	Yes
6.4 Airspace Operation	Yes	Yes – see discussion
6.7 Stormwater	Yes	Yes
6.12 Essential Services	Yes	Yes – see discussion

2.3 Zone RE1 Public Recreation

Pursuant to the RLEP Land Zoning Map – Sheet LZN_003 (dated 11 July 2014), the subject site is zoned RE1 Public Recreation, refer to **Figure 3**.

Land Zoning Map

Zone	
B1	Neighbourhood Centre
B2	Local Centre
B4	Mixed Use
B6	Enterprise Corridor
IN2	Light Industrial
R2	Low Density Residential
R3	Medium Density Residential
R4	High Density Residential
RE1	Public Recreation
RE2	Private Recreation
RU4	Rural Small Holdings
SP2	Infrastructure
SP3	Tourist

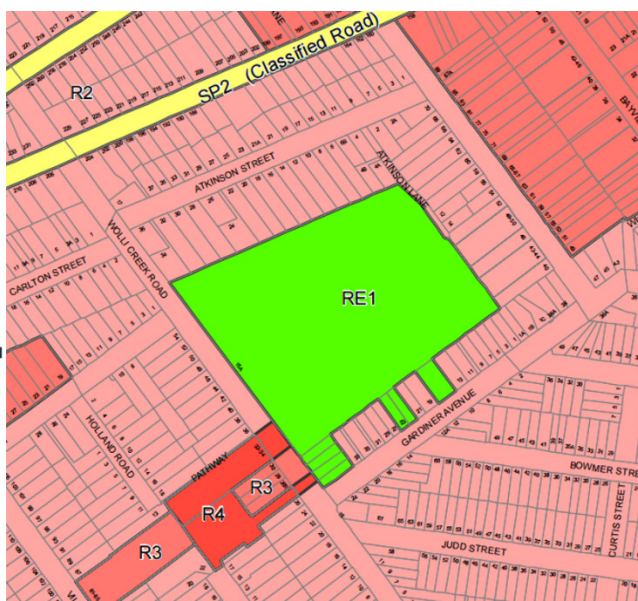


Figure 3 – Land Zoning Map extract, illustrating the RE1 zoning of the subject site in the centre of the image

Source: legislation.nsw.gov.au – Rockdale Local Environmental Plan 2011

The objectives of the public recreation zone are:

- *to enable land to be used by the public for open space and recreational activities,*
- *to provide a range of recreational settings and activities and compatible land uses, and*
- *to protect and enhance the natural environment for recreational purposes.*

Within this land use zone the following applicable land uses are permitted with consent:

- *Recreation Areas,*
- *Recreation facilities (indoor),*
- *Recreation facilities (outdoor)*

The existing Gardiner Park, as supported by its existing improvements, provides for an appropriate area to perform outdoor recreation, and therefore falls within the land use definition for recreational facility (outdoor). The RLEP defines recreation facility (outdoor), as follows:

recreation facility (outdoor) means a building or place (other than a recreation area) used predominantly for outdoor recreation, whether or not operated for the purposes of gain, including a golf course, golf driving range, mini-golf centre, tennis court, paint-ball centre, lawn bowling green, outdoor swimming pool, equestrian centre, skate board ramp, go-kart track, rifle range, water-ski centre or any other building or place of a like character used for outdoor recreation (including any ancillary buildings), but does not include an entertainment facility or a recreation facility (major).

The proposed development, being the erection of six (6) additional light masts for illuminating the sporting field area of Gardiner Park, is ancillary to the use of the area as a recreational facility.

The proposal supports the existing use of the park as a recreational facility, as it will allow for the continued use of the park after the sun has set into the evening period.

In this regard, the proposal further helps realise the RE1 zone objectives by enabling appropriately zoned land to be used for recreational activities.

4.3 Height of buildings

Pursuant to the Height of Building Map – Sheet HOB_003 (dated 21 October 2016), the subject site is not identified as being restricted to a maximum height.

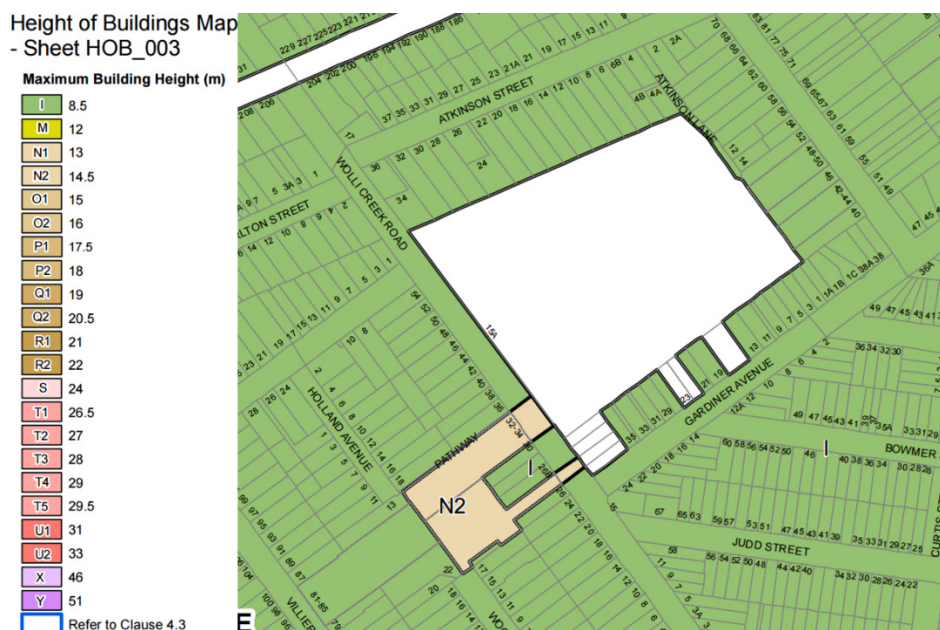


Figure 4 – Maximum Height of Buildings Map extract, illustrating that the maximum height of building clause (4.3) has not been applied to the subject site.

Source: legislation.nsw.gov.au – Rockdale Local Environmental Plan 2011

The subject site is not restricted by a maximum building height development standard, refer to **Figure 4**.

The proposal is furthermore not considered to offend the clause 4.3 as it will not impact on the sky exposure and daylight to buildings, key areas and the public domain.

(Refer to assessment against streetscape development controls for discussion on public domain and sky exposure).

5.9 Preservation of trees or vegetation

Clause 5.9 requires development consent or a permit granted by Council to be obtained prior to the removal or damaging of any tree or other vegetation prescribed by a development control plan.

The submitted Statement of Environmental Effects suggest that all new light poles will be installed a minimum four (4) metres from any tree. The precise location of the proposed light poles is not accurately detailed within the submitted information; however, the Google Earth Site Plan relied upon by the applicant and confirmed as being satisfactory by Council indicates that the lighting poles will be installed within the sports field area of Gardiner Park, and generally clear of any significant vegetation.

In the absence of a precise and detailed site plan, it is considered appropriate to include the following conditions of consent to ensure existing trees are not impacted:

1. *The light poles must be located a minimum distance of four (4) metres from the nearest tree measuring three (3) metres or greater in height.*

5.10 Heritage conservation

Pursuant to the Heritage Map – Sheet HER 003 (dated 23 October 2016), Gardiner Park is listed as containing a heritage item of local significance (heritage item I79) as identified under Schedule 5 of the RLEP.

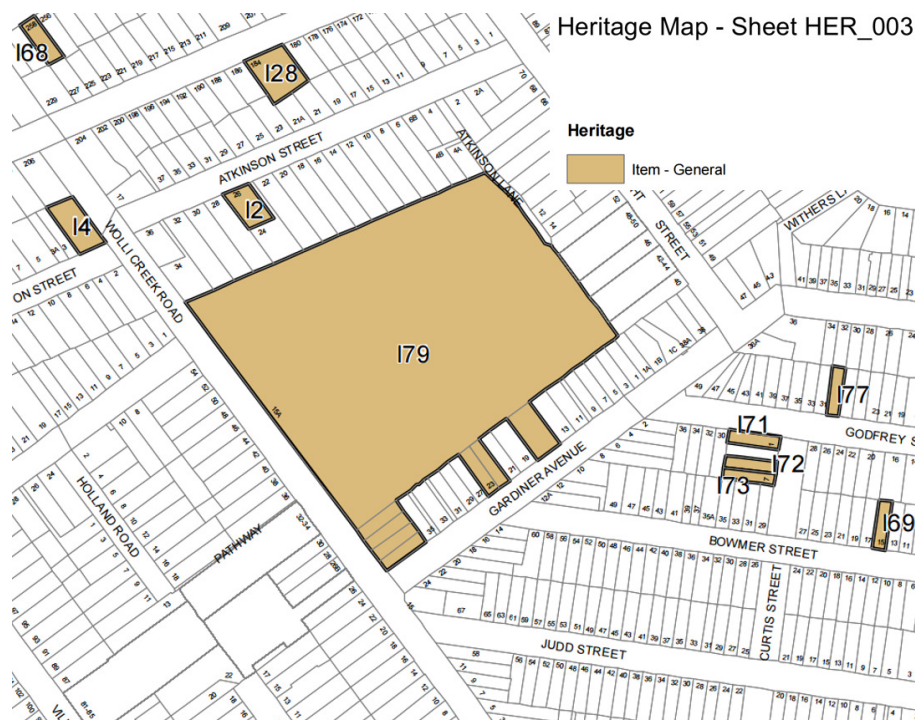


Figure 5 – Heritage Map extract, illustrating that the subject site, noted as item 179, as having heritage significance
Source: legislation.nsw.gov.au – Rockdale Local Environmental Plan 2011

An extract of the NSW Office of Environment and Heritage Statement of Significance for the site of Gardiner Park, is as provided as follows:

“This urban landscape is significant as the site of the Walz Quarry, an early 19th century business in Rockdale, and a local landmark. It is significant in its association with the Walz family, and as the site of Relief Works in Rockdale in the Depression. It is aesthetically significant as a rare example of an urban landscape surrounded by sandstone cliffs and as a scenic landmark visible from Wolli Creek Road”.

Subclause (4) of clause 5.10 identifies that the consent authority must, before granting consent under this clause in respect of a heritage item or heritage conservation area, consider the effect of the proposed development on the heritage significance of the item or area concerned.

In this regard, the applicant was requested to provide Council with a Heritage Impact Statement which considered the effect of the proposed development on the heritage significance of the area, being Gardiner Park.

A Heritage Impact Statement, prepared by Rockeman Town Planning (dated February 2017) was submitted to Council in response to an additional information request. The assessment outlines that the erection of the light poles would not impact the cultural heritage and landscape of the park as the light poles are to be erected in the sports field for visibility purposes only and are a fair distance from the significant heritage features of the park.

The assessment concluded that in consideration of the merits of the proposal and the absence of any adverse impacts, it is recommended Council grant consent to this development, subject to appropriate conditions.

Council’s Heritage Officer has reviewed the proposal and the submitted Heritage Impact Statement and notes the following:

The following Policies from the Conservation management Plan for Gardiner Park are particularly relevant to this DA:

- *Policy 52: In managing Gardiner Park ensure that it remains inclusive of the whole community and all recreational user groups and prevent the perception that the park belongs exclusively to any one group.*

Heritage Officer Comment: The DA focuses on the lighting necessary to play soccer. There is no evaluation of other user groups and their needs. The DA assumes the rest of the community will benefit but provides no analysis to support this assumption.

- *Policy 58: Ensure all new services, infrastructure and facilities proposed within and adjoining Gardiner Park are planned and designed on the basis of this CMP taking into account the cultural significance of the park and the need to ensure that significance is not compromised.*

Heritage Officer Comment: The impact upon the aesthetic value of the park and views into the park from outside, has not been assessed.

- *Policy 73: Remove, replace, redesign or otherwise reduce the intrusiveness of the various elements within Gardiner Park that detract from an appreciation of its cultural significance.*

Heritage Officer Comment: Excessive infrastructure has the potential to introduce new intrusive elements into the park

Despite Council's Heritage Officer's referral outlining the areas where the submitted Heritage Impact Statement is deficient, the proposal is ultimately supported subject to conditions of consent. The recommended heritage conditions of consent are detailed earlier under the *Referrals* section of this report.

In this regard, the proposal is deemed to have satisfied the provisions and objectives of clause 5.10 of the RLEP.

6.1 – Acid Sulfate Soils – Class 5

Pursuant to the Acid Sulfate Soils Map – sheet ASS_003 (dated 11 July 2014), the subject site is identified as being affected by Class 5 Acid Sulfate Soils (ASS), refer to **Figure 6**.

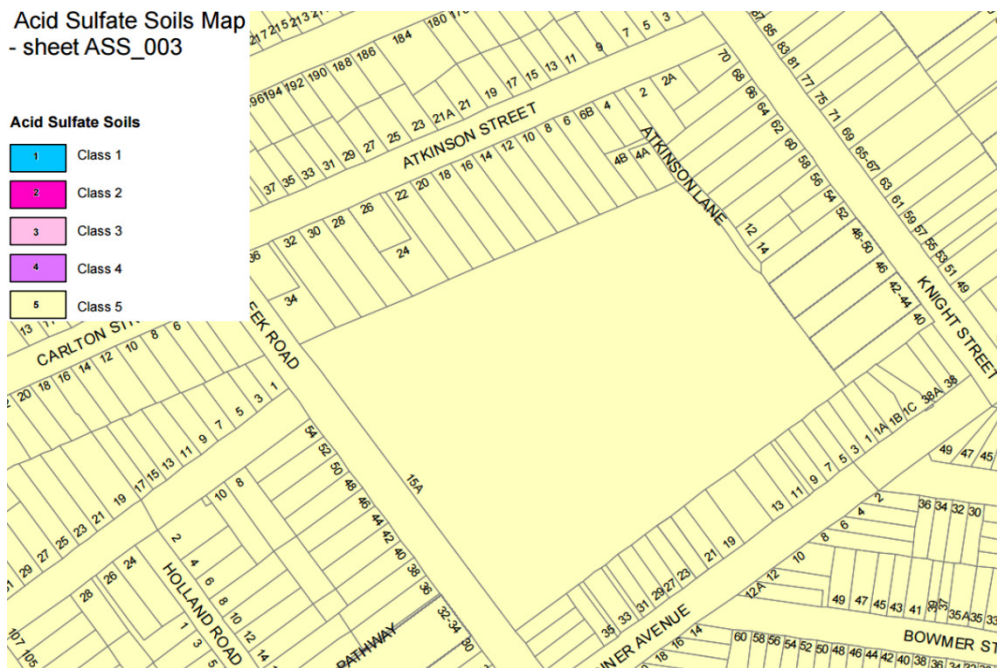


Figure 6 – Acid Sulfate Soil Map extract, illustrating the subject site as being affected by Class 5 acid sulfate soils
Source: legislation.nsw.gov.au – Rockdale Local Environmental Plan 2011

Clause 6.1 outlines that an acid sulfate soils management plan must be prepared for any land identified as being affected by Class 5 ASS, for any proposed works that:

- Is within 500m of adjacent Class 1, 2, 3 or 4 land that is below 5 metres AHD, and
- Will likely lower the water table below 1 metre AHD on adjacent Class 1, 2, 3, and 4 land.

The proposal will include some minor earthworks associated to the footings of the light poles, however the works will not occur at levels near 5 metres AHD.

In this regard, the proposed development is considered unlikely to disturb, expose, or drain acid sulfate soils. As such the provisions and objectives of this clause are taken to be satisfied.

6.4 – Airspace operations

The proposed development is located within the inner horizontal surface (51m AHD) identified on Sydney Airports Obstacle Limitation Surfaces (OLS) map as declared by the Department of Infrastructure and Regional Development on 20 March 2015.

Accordingly, a referral was sent to Sydney Airport pursuant to the 183 Airports Act - Notification of decision under Reg 15A(2) of the Airports (Protection of Airspace) Reg's 1996. Sydney Airport raised no objection to the proposed development.

The referral to Sydney Airport, along with the relevant conditions of consent, is discussed in further detail under the *Referrals* section contained earlier within this report.

6.6 – Flooding

Pursuant to the Flood Planning Map – Sheet FLD_003 (dated 11 July 2014), the subject site is not identified as being located within a Flood Planning Area, however a number of allotments directly adjoining the park are identified as being flood affected, refer to **Figure 7**.



Figure 7 – Flood Planning Land extract, illustrating that the subject site not identified as Flood Planning Land

Source: legislation.nsw.gov.au – Rockdale Local Environmental Plan 2011

The proposed development will incorporate minor excavation associated to the light pole footing work. Subject to the completion of the minor works, the existing ground level will not be affected.

As there is no change to the existing landform, the proposal will not impact the existing water storage capacity of the site nor will it affect the existing flooding behaviour of the immediate land. Accordingly, any flooding impacts on adjoining flood affected properties will not be exacerbated as a result of the proposed works.

In this regard, further flooding investigation is unnecessary as the objectives of clause 6.6 have been satisfied.

6.7 – Stormwater

The proposal involves excavation works for the trenching required for the electrical wiring and structural pads for the light masts. The nature of the excavation works is however considered to be minor. Subject to a recommended consent condition requiring that soil and erosion mitigating measures be implemented in accordance with Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organisation of Councils, any stormwater runoff during construction works will have minimal impacts on the receiving waters and adjoining land.

The proposal will not have any additional on-going stormwater impacts.

6.12 – Essential services

Given the existing use of the site, essential services such as water, electricity, sewage, and local roads are already available.

Conditions of consent will be imposed requiring that consultation with the relevant utility providers be had prior to commencing any works to ensure that specific requirements for the provision of services are satisfied.

S.79C(1)(a)(ii) - Provisions of any Draft EPI's

No relevant proposed instruments are applicable to this proposal.

S79C(1)(a)(iii) - Provisions of any Development Control Plan

The following development control plan is relevant to this application:

Rockdale Development Control Plan 2011

The application is subject to the Rockdale Development Control Plan 2011 (RDCP). A compliance table of the relevant development controls applicable to the proposed development is provided below:

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.1 Views and Vista	Yes	Yes – see discussion
4.1.2 Heritage Conservation	Yes	Yes – see discussion
4.1.3 Water Management	Yes	Yes – see discussion
4.2 Streetscape and Site Context	Yes	Yes – see discussion
4.3.1 Open Space and Landscape Design	Yes	Yes – see discussion
4.4.2 Solar Access	Yes	Yes
4.6 Parking, Access and Movement	Yes	Yes – see discussion

4.1.1 Views and Vista

The subject site is a heritage listed item with inherent historic contextual significance. The site was originally used as quarry, and there after it became a site of depression relief works. The associated visual features of the heritage park include the semi-exposed sandstone cliffs, which are recognised as a local scenic landmark and visible from Wolli Creek Road.

The proposed light poles will be principally located to the north-east side of the sports field, away from Wolli Creek Road. The visual access of the sandstone cliff features of Gardiner Park from Wolli Creek Road is furthermore reduced by the presence of the mature Fig trees

that line the Wolli Creek Road frontage, see **Figure 8** for photographic representation. In this regard, the location and physical form of the light masts, in combination with the existing screening of vegetation, submits that the proposal will have minimal impact on the views to, and vistas of Gardiner Park.



Figure 8 – North view of Gardiner Park from the Wolli Creek Road, illustrating the tree lined frontage of Wolli Creek Road
Source: CPS site inspection photograph

Furthermore, the proposal will not become a distinct feature within the sky-line above Gardiner Park as the park contains numerous mature trees with heights greater than 15 metres. Along the periphery of the sports field, 15-metres-high light poles are also already present.

In this regard, the proposal is not considered to have any measurable impacts on the views or vista of Gardiner Park.

4.1.2 Heritage Conservation

As discussed in the assessment against clause 5.10 Heritage Conservation of the RLEP earlier within this report, the proposed development was supported by a Heritage Impact Statement, prepared by Rockeman Town Planning (dated: February 2017), and subsequently reviewed by Council's Heritage Officer.

In summary, the proposal's impact on the heritage significance of the Gardiner Park was found to be acceptable subject to recommended conditions of consent.

4.1.3 Water Management

The proposed development is not considered to impact or require augmentation to the existing stormwater management applicable to the site.

The proposal involves minor excavation works for the trenching required for the electrical wiring and structural pads for the light masts. As the nature of excavation works is minor,

and will not result in the loss of any measurable water retention capacity, a geotechnical report covering groundwater was not considered to be necessary.

To ensure that the proposed development has a minimal impact on the soil and any pollution resulting from the physical works, the attached conditions of consent include the requirement that soil and erosion mitigating measures in accordance with Soil and Water Management for Urban Development Guidelines produced by the Southern Sydney Region Organisation of Councils be implemented.

4.2 Streetscape

As discussed under the assessment of the *Views and Vistas* section of the RDCP earlier within this report, the primary frontage of Wolli Creek Road is dominated by large mature trees and associated vegetation, see **Figure 8**. The nearest light mast will be located 25 metres from the Wolli Creek Road boundary, adjacent to the primary entrance, on the level grassed area of the sports field, which is about 1.5m lower than the entrance pathway and therefore further separated from the frontage.

In this regard, the proposal is not considered to render any material change to the existing streetscape of Wolli Creek Road. The presence of the light poles is further not considered to be visually distinctive within the context of the park as the purpose of the lights directly complements the sports field.

The applicable sky-line when looking at Gardiner Park from Wolli Creek Road and surrounding areas is typically dominated by tall trees, however the existing sports field light poles and pedestrian path light poles are also present. This means that the proposed light poles will not be a distinctive or discordant feature of the Gardiner Park skyline.

Accordingly, the proposal is not considered to have any measurable impact on the streetscape appearance of the park, and will further complement the context of the park by supporting its use as a sports field.

4.3.1 Open Space and Landscape Design

The proposed development does not seek to change the use of the open space or any of the existing landscaping. The erection of the light poles will be required to be located a minimum four (4) metres from the nearest tree by way of consent conditions.

4.6 Parking, Access and Movement

The proposal is considered to essentially represent an 'alterations and additions' DA, being the addition of light poles and luminaries to an existing recreational facility.

The parking development controls of Part 4.6 of the RDCP outline the following parking requirements for 'alterations and additions' to an existing development:

'Additional parking is required to be provided equivalent to the increase in gross floor area, number of seats, number of beds, or whichever specific unit upon which car parking demand is measured.'

In this regard, parking demand is a determinant of the 'number of players' using the sports field, and therefore shall be the specific unit upon which car parking demand should be measured.

In terms of the proposed number of players, the revised Statement of Environmental Effects (received 11 January 2017) submitted by the applicant states the following:

"We do not anticipate any increase of usage of the park as a result of this proposal. On the contrary we anticipate less usage of the park during the training nights as a result of improved lighting which allows more teams to utilize the field on a given night. The training nights and game days will not be changed at all, we do not intend to use the park for any night games and hence the noise level should not change neither should there be any need for extra parking requirements on the street." – page 3.

The extract above, outlining that there will be no increase in the usage of the park, was further reaffirmed by the applicant, Banksia Tigers Football Club, in later discussions during two (2) separate meetings held at Council's offices with attendance from Council's officers, and the consultant planner.

In this regard, it was not considered appropriate to require the submission of a Traffic and Parking Report. In terms of existing park usage, the revised Statement of Environmental Effects offers the following:

"The number of people expected to use the park will not change as a result of the increased lighting. Currently we estimate between 80 – 100 players to use the park per training night with the majority of these players (80%) being juniors between 6 years and 16 years old. All Juniors between the age of 6 and 13 years old have their training sessions scheduled between 5 pm at 7 pm. Juniors between the ages 14 – 16 years old have their training sessions scheduled between 7 pm and 8:30 pm."

The applicant supported the above statement with verbal substantiation stating that membership numbers have been stable over the last three (3) or four (4) years. It is acknowledged that there are no existing approvals or a specific Plan of Management regulating number of persons capable of using the sports field at any one time.

As such, in the absence of independent verifiable evidence confirming the existing park usage, and whilst understanding that the purpose of the park is to provide for recreational activities, an 'amber light' approach is recommended to be employed in reference to the proposal. This means that the park usage estimate of 80-100 players is accepted based on the provision that the traffic and parking impacts will not be increased or impacted as a result of the erection of the additional six (6) lighting poles.

In line with the amber light approach, should the provisional 80-100 players be an inaccurate reflection of the existing usage of the park, and the proposal results in unacceptable traffic and parking impacts, the applicant will be required to submit a Plan of Management that is specific to the site and proposed use. The specific Plan of Management shall include details of training times, maximum number of players, and operational matters ensuring the operation of the park results in minimised traffic and parking impacts.

In this regard, the following condition of consent is recommended to be imposed in any development consent:

1. *Should the existing traffic and car parking situation deteriorate as a result of the erection and operation of the subject lighting poles, then at Council's request a specific Plan of Management must be prepared and submitted to the satisfaction of Council.*

The Plan of Management must include details of training days and hours, player numbers, and mitigating measures ensuring the operation of the sports field will result in minimised traffic and parking impacts.

Reason: to ensure the existing traffic and parking situation is not negatively impacted by the proposed development.

Subject to the recommended conditions of consent, the proposal is not considered to result in any undue parking or traffic impacts.

S.79C(1)(a)(iv) - Provisions of regulations

Clause 92-94 of the Regulations outline the matters to be considered in the assessment of a DA.

The matters prescribed by clause 92-94 of the regulations does not apply to the proposed development. In this regard the provisions of the regulations have been considered.

S.79C(1)(b) - Likely Impacts of Development

Most of the likely impacts relating to the proposed development has been considered in the assessment of the RLEP and RDCP. The likely impacts of the proposal that are not covered within the assessment of Council's planning instruments and controls, or for that matter require further consideration are detailed as follows:

- Light Spill Impacts, and
- Acoustic Impacts.

Light Spill Impacts

Gardiner Park sports field lighting will need to comply with the Australian Standards for Control of the obtrusive effects of outdoor lighting (AS 4282-1997). The most pertinent of the requirements of AS 4282-1997 to the assessment of the development, is considered to be the obtrusive light intensity at the boundary of the site and adjacent residential development. Table 2.1 within AS 4282-1997 provides that obtrusive light intensity at site boundaries before 11pm are to be as follows:

- 10 Lux or less at a residential boundary, and
- 25 Lux or less at a commercial boundaries.

For reference, twilight is considered to exhibit a lux level of 10.8.

After 11pm, the Lux levels at the site boundaries are to be reduced to 2 Lux in light surrounds and 1 Lux in dark surrounds.

The proposal seeks to add six (6) lighting poles with attached light fittings for use in the evening of the winter sporting season (1st April 2017 – 19th August 2017) switching off at 9.30pm. This is in accordance with the reservation days and times detailed in the Permit 16/138308 issued by Council on 15 December 2016 for the use of the park.

The DA has been supported by a Lighting Design report, prepared by HHH Consulting (revision 4, dated 26 January 2017). The report considers the obtrusive effects of the proposed six (6) lighting poles in addition to the two (2) existing light poles, as per **Figure 9**.

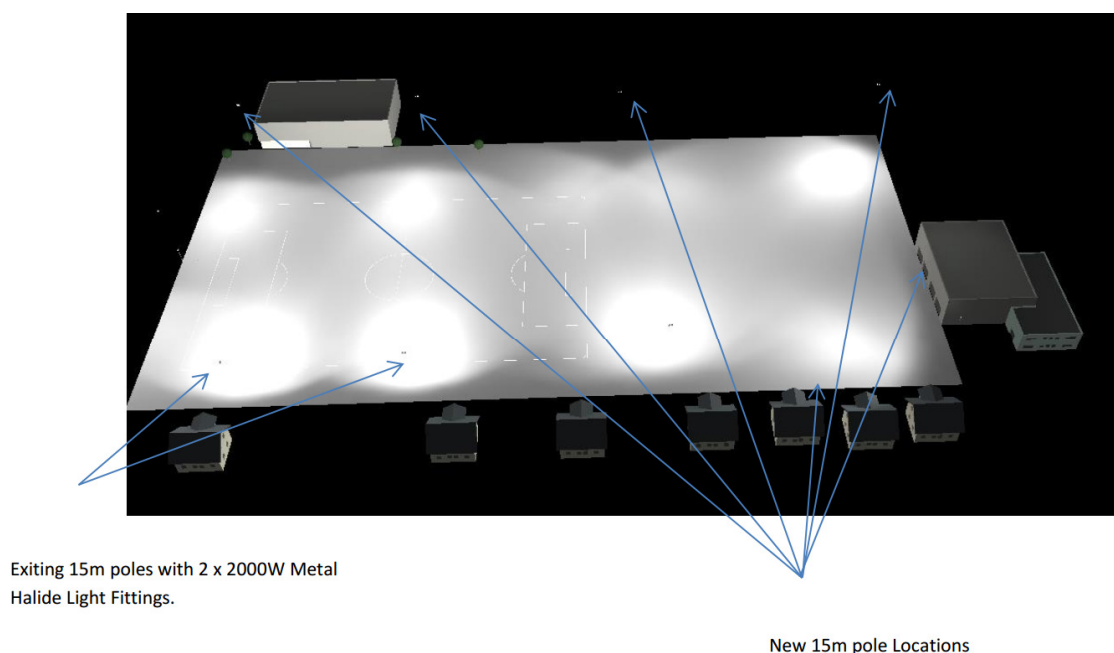


Figure 9 –Extract of layout lighting diagram, illustrating the measurement of light spill from a total of eight (8) light poles

Source: Lighting Services Specification, prepared by HHH Consulting, dated 26 January 2017

It is noted that the site inspection identified that that at least three (3) light poles with attached light fittings are present on the sports field of Gardiner Park.

As the revised Statement of Environmental Effects outlines that the proposed lights will be replacing existing inadequate lighting (page 2), it is considered that the light poles assessed in the submitted Lighting Design report are those requested to be approved. In this regard, the following condition of consent is recommended to be imposed

1. *Prior to the release of an Occupational Certificate (or operation of the approved sports field lights), there must be no more than a total of eight (8) light poles with a maximum of two light fittings on each pole for the illumination of the Gardiner Park sports field.*

Any additional light poles must be removed prior to the operation of the subject sports field lights.

Reason: to ensure the modelled level of obtrusive light is accurate and in accordance with the submitted Light Services Specification report.

The Lighting Design report concludes that subject to the additional six (6) light poles with attached Pierlite GIGA 2000W light fittings supplementing two (2) of the existing light poles with attached metal halide lights, the sports field illumination is capable of complying with AS 4282-1997. The report anticipates the following Lux levels at the boundaries of the sports field:

- 2.09 Lux at the rear boundary of the dwellings fronting Gardiner Road,
- 8.60 Lux level at the Wolli Creek Road frontage boundary, and
- 1.74 Lux at the rear boundary at the properties fronting Atkinson Street.

In this regard, the light spill impacts of the proposal is considered to be acceptable and can therefore be supported.

It is noted that the lighting plan is for preliminary design evaluation only. As such, the following conditions of consent are recommended to ensure that acceptable obtrusive light levels are actually achieved after the erection and operation of the sports field lights:

1. *Prior to an occupation certificate (or completion certificate) a qualified lighting installation professional shall verify that the lighting mast and associated floodlights have been installed in accordance with the Obtrusive Lighting Provisions (i.e. calculation of spill light to nearby residential premises or other sensitive locations) of the AS 4282-1997.*

Reason: To ensure that obtrusive light reaching sensitive locations are minimised as in accordance with the Australian Standards for Control of the obtrusive effects of outdoor lighting.

2. *During operation, the lighting of the Gardiner Park sports field shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads. All existing and proposed lights shall comply with the Australian Standard AS 4282-1997: Control of the Obtrusive Effects of Outdoor Lighting.*

Reason: To ensure that the compliance with obtrusive lighting requirements of the AS 4282-1997 are maintained during the operational life of the Gardiner Park sports field lighting.

To further minimise the late-evening impacts of the proposed lighting, the lights are required to be extinguished immediately after training has concluded. In this regard, the following conditions of consent are recommended:

1. *An automated curfew switch is to be installed, along with manual off switches, for each light pole.*
2. *The sports field lights are to be automatically extinguished by 9:30pm on training days, Monday – Friday (inclusive). Should the training conclude earlier, the lights are to be extinguished at the earlier concluding time.*

Reason: to ensure that the light use does not extend beyond the times of use, or 9:30pm at the latest.

Acoustic Impact

The proposed development will facilitate the evening use of previously non-illuminated areas of the sports field at Gardiner Park. These areas are considered to include: the area closer to the new clubhouses and amenities building to the west, and the northern area of the field, refer to **Figure 10**.



Figure 10 – Existing and proposed sports field lighting of Gardiner Park.

Source: map extract from maps.six.com.au, as adapted by CPS for diagrammatic purposes

As stated earlier in this report, the proposed development will not result in an increase in the number of players utilising the field. However, despite not increasing the number of players, the proposal will change the areas of the park that can be used after sunset, which will likely result in additional noise impacts being experienced at adjacent residential properties that adjoin areas that were previously not illuminated.

In this regard, the applicant has submitted an Acoustic Assessment prepared by Koikas Acoustics (dated 8 February 2017) detailing that the resulting noise impacts are minor and within acceptable levels.

The assessment utilised comparative noise modelling using specialised acoustic software. The noise model utilises the following assumptions:

- **Comparative noise baseline** – spectral noise levels obtained from an indoor soccer match played outdoors were used as baseline sound power level within the model.
- **Noise model scenarios** – Two (2) noise model scenarios were explored in the assessment. The existing noise profile resulting from the use of a limited area of the field, and proposed noise profile resulting from a marginally larger area, refer to **Figure 11**.
- **Training schedule** - between 5:00pm and 8:30pm on Monday, Tuesday, and Thursday, and between 5:00pm and 9:30pm on Wednesdays.
- **Maximum proposed capacity** - At any one time a maximum of 100 persons will be on the field, due to the staggered training time.

- **Training area** - The model assumed the existing training area to be to the south of the field, close to the nearest dwellings (fronting Gardiner Road), and subject to lighting that the training area would be shifted more northward, and away from these nearest dwellings.



Figure 11 – Assumed ‘current’ and ‘proposed’ training locations considered in the submitted Acoustic Assessment.
 Source: Acoustic Assessment, prepared by Koikas Acoustic, dated 8 February 2017.

The results of the acoustic assessment identified that there would be a noise level increase of 1-2 decibels (dB) to dwellings fronting Atkinson Street, Atkinson Lane, and along Wollie Creek Road, and a decrease of 2-5 dB to dwellings fronting Gardiner Avenue.

To ensure the maximum field participant number assumptions utilised in the acoustic report will be representative of the future use of the sports field, the following consent condition is recommended to be imposed in any development consent:

1. *The number of people using the sports fields of Gardiner park at any one time should not be greater than 100.*

Note. Should the number of people using the Gardiner Park sports sought to be increased beyond 100 people, a Section 96 modification application will need to be lodged with Council. A new acoustic report will need to accompany any such Section 96 modification application.

Reason: to ensure the modelled noise impact is accurate and reflected by the operation of the sports field, in accordance with the submitted acoustic assessment.

Furthermore, in the absence of the any verifiable information the assumed current and proposed training locations utilised in the acoustic report shall be accepted as reflective of the current and proposed use of the sports field for which the results of the acoustic report can be accepted. However, in-line with the amber light approach, should the future use of the field not reflect the assumptions made in the acoustic report, the applicant will be

required to submit a Plan of Management that is specific to the site, proposed use and in consideration of the acoustic impacts. The specific Plan of Management shall respond to noise impact complaints and modify operational aspects to ensure the noise impacts are mitigated.

In this regard, the following condition of consent is recommended to be imposed in any development consent:

2. *Should the existing noise levels be unreasonably increased as a result of the erection and operation of the subject lighting poles, then Council reserves the right to request a specific Plan of Management detailing noise mitigating measures. This Plan of Management must then be prepared and submitted to the satisfaction of Council.*

Reason: to ensure the proposed development does not result in the unreasonable noise impacts on adjoining residential properties.

Subject to the recommended condition, the potential acoustic impacts of the proposal are considered to be satisfactorily mitigated.

S.79C(1)(d) - Public submissions

The proposed development was notified on 10 November 2016 and public comment could be received until 30 November 2016. Three (3) submissions were received during the notification period. The concerns raised in the submissions are indicated below, along with a comment from the consultant assessing planner;

1. Inadequate information

A submission raised concern regarding the inadequacy of the DA in terms of supporting information.

As detailed specifically in the *History* section of this report, the applicant was requested to provide additional information and supporting reports to demonstrate the suitability of the proposed lighting. The additional information included a revised Statement of Environmental Effects, a lighting report, an acoustic report, and Heritage Impact Statement. Subject to the submission of this additional information, a suitable assessment could be performed of the proposal.

2. Noise impacts

All three (3) submissions detailed concerns of the resulting noise impacts of the proposal, and further outlined after-hours loitering known to occur frequently during the training season.

In response to an additional information request, the applicant submitted an Acoustic Assessment to Council. The report is discussed in detail within the body of this report. However, the assessment concluded that the proposed development would not result in the increase of acoustic impacts, subject to the accuracy of the assumptions made in the applicant's submitted acoustic report.

Conditions of consent have been recommended to ensure the use of the park, subject to the proposed development, reflects the assumptions made in the acoustic assessment.

3. Loitering

One (1) submission raised loitering that occurs after training hours as a concern.

As discussed in the body of this report, the proposed sports field lighting be required to be switched off automatically at 9:30pm, or earlier if training has concluded prior to 9:30pm Mondays to Friday.

The Statement of Environmental Effects suggests subject to the erecting of the additional lights, training on Mondays, Tuesdays, and Thursdays, will conclude an hour earlier at 8:30pm. This should reduce the amount of potential loitering occurring after training has concluded.

Should loitering continue to be an issue, Council's enforcement team should be contacted for any breach of development consent conditions, or park use permit conditions.

4. Traffic

All three (3) submissions detailed concerns of additional traffic and parking impacts.

As discussed in detail within the report, the additional lighting is not sought to increase the number of players on the field on a given evening, only to spread the wear of the field's grass more evenly across the whole field. To ensure there is no increase in the number of players following the erection of the lights, a condition of consent is recommended to provide a limit on the maximum number of people using the sports field at any one time.

5. Lighting

All three (3) submissions detailed concerns of light spillage.

As discussed in detail within the *Likely Impacts* section of this report, the applicant submitted a Lighting Services Specification report outlining that the proposal is capable of complying with the Australian Standard for the control of the obtrusive effects of outdoor lighting (AS 4282-1997). In this regard, the proposal will need to submit a lighting verification report after the lights have been erected and installed, demonstrating that the requirements of the AS 4282-1997 have been met.

Several submissions further identified the existing lighting to be an issue. In this regard, a condition of consent is recommended that the lighting of Gardiner Park sports field shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads. Furthermore, all existing and proposed lights shall comply with the *Australian Standard AS 4282-1997: Control of the Obtrusive Effects of Outdoor Lighting*.

6. Lighting use

One (1) submission requested details of days and times lighting is in use.

Details of the proposed training times and lighting use are discussed in this report. The lighting will be required to switch off automatically by 9:30pm, or earlier if training has concluded before 9:30pm Mondays to Friday.

7. Rubbish and food

Several submissions complained about the generation of rubbish and food resulting from the use of the sports field.

The permit that has been issued by Council for the use of Gardiner Park sports field outlines certain conditions of use including conditions relating to cleaning and rubbish. Should the sports field be found in an unacceptable state, Council should be made aware. The applicant of the permit is responsible for field during its use.

8. Grass remediation works

One (1) submission stated that because of the additional lighting, the grass upkeep remediation works, inclusive of odorous top soil, will be increased.

The proposed development will permit the even use of the sports field thus allowing for more even wearing of the grassed areas. Furthermore, the proposal does not seek to increase the number of people using the sports field at any one time.

9. Security

One (1) submission cited concerns regarding the decrease in the safety of adjoining residential properties because of the increase of field use.

The proposal is taken to support Crime Prevention Through Environmental Design principles, as additional areas of the public space shall be illuminated, and because of this park usage additional passive surveillance is provided to the park and adjoining residential properties.

10. Existing Plan of Management for Park

The proposal does not offend the objectives and intent of the Rockdale City Council Plan of Management for Community Land and Public Open Space 2016. The proposal supports the existing and future use of Gardiner Park, as it supports an activity related to active recreation needs (page 89).

Furthermore, as detailed in this report, should the existing traffic/parking and acoustic situation deteriorate because of the proposed lighting, then a specific Plan of Management must be prepared and submitted to the satisfaction of Council.

S.79C(1)(e) - Public interest

The proposed development will support the efficient use of the sports field at Gardener Park by facilitating the use of the entire sports field after sunset, to ensure for a more even wear of the field.

Improved access and opportunities to participate in organised outdoor activity is in the public interest. The increased use of the subject site supports the economic use of the land, and subsequently helps reduce the need to use additional land for recreational activities to cater for the demand of the community.

With the recommended conditions of consent to ensure any impacts resulting from the proposed development is effectively mitigated, it is considered that the proposed development can be seen to be in the public interest.

Report prepared by:

A handwritten signature in black ink, appearing to be 'D. Jones', written over a light blue horizontal line.

Patrick Waite
Consultant Assessment Officer
Creative Planning Solutions Pty Limited
21 February 2017, and amended on 22 February 2017

Report reviewed by

A handwritten signature in black ink, appearing to be 'BT', with a long horizontal line extending to the right.

Ben Tesoriero
Consultant Assessment Officer
Creative Planning Solutions Pty Limited
21 February 2017

Attachment 1 – Draft conditions of consent

Our Ref: DA-2017/156
Contact: Marta M Gonzalez-Valdes 9562 1666

444-446 Princes Highway Rockdale NSW 2216
PO Box 21 Rockdale NSW 2216
T 1300 581 299 F 9562 1777
rcc@rockdale.nsw.gov.au
www.bayside.nsw.gov.au

Banksia Tigers Football Club
PO BOX 265
BANKSIA NSW 2216

NOTICE OF DETERMINATION

Issued in accordance with section 81(1a) of the *Environmental Planning and Assessment Act, 1979*

Application Number: DA-2017/156
Property: 15 A Wolli Creek Road, BANKSIA NSW 2216
PT 12 Sect DP 1771
Lot 1 Sect DP 1771
Lot 2 Sect DP 1771
Lot 3 Sect DP 1771
Lot 4 Sect DP 1771
Lot 661 DP 827186
Lot 1 DP 940560
Lot 11 Sect DP 1771
Proposal: Addition of six (6) light poles to local heritage item
known as Gardiner Park

Authority:

Determination:

Date of determination:

Date consent commences:

Date consent lapses:

General Conditions

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. The term of this consent is limited to a period of five (5) years from the date of the original approval. The consent will lapse if the development does not commence within this time.
2. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Title	Drawn by	Revision	Received by Council
Untitled – Diagram depicts Google Earth image with location of new 15m light poles	N/A	N/A	11 January 2017
Untitled – Diagram depicts measured locations of proposed sports lights	N/A	N/A	11 January 2017
Lighting Services Specification	HHH Consulting	Revision 4	26 January 2017
Acoustic Assessment	KoikasAcoustics	Project No. 3123 Issue V2	8 February 2017

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**

Development specific conditions

The following conditions are specific to the Development Application proposal.

5. **Automated Curfew Switch**
An automated curfew switch is to be installed, along with manual off switches, to each of the approved lighting masts and floodlights, to ensure that the light use does not extend beyond 9:00pm at the latest.
6. **Tree Impact**
The light poles must be located a minimum distance of four (4) metres from the nearest tree measuring three (3) metres or greater in height. Details shall be included in the construction certificate documentation prior to the issue of the Construction Certificate.
7. The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an “offensive noise” as defined under the provisions of the Protection of the Environment Operations Act, 1997.
8. During operation the lighting of the sports field shall be directed so as not to cause nuisance to the owners or occupiers of adjacent/adjoining premises or to motorists on adjoining or nearby roads. All existing and proposed lights shall comply with the Australian Standard AS 4282-1997: Control of the Obtrusive Effects of Outdoor Lighting.
9. All soil disposed of off-site shall be classified in accordance with the procedures in the current NSW Environment Protection Authority’s Environmental Guidelines: Waste Classification Guidelines and taken to a licensed waste disposal facility which accepts such waste.
10. **Heritage**
 - (a) Installation of light poles must not damage sandstone retaining walls or rock shelves.
 - (b) Due diligence is to be exercised in relation to any possible archaeological resources within the works area. If any such evidence is found, it should immediately be brought to the attention of Council.

11. **Maximum Capacity**

The number of people using the sports fields of Gardiner Park at any one time should not be greater than 100.

Note: Should the number of people using the Gardiner Park sports sought to be increased beyond 100 people, a Section 96 modification application will need to be lodged with Council. A new acoustic report will need to accompany any such Section 96 modification application.

Reason: To ensure the modelled noise impact is accurate and reflected by the operation of the sports field, in accordance with the submitted acoustic assessment.

12. **Traffic**

Should the existing traffic and car parking situation deteriorate as a result of the erection and operation of the subject lighting poles, then at Council's request a specific Plan of Management must be prepared and submitted to the satisfaction of Council.

The Plan of Management must include details of training days and hours, player numbers, and mitigating measures ensuring the operation of the sports field will result in minimised traffic and parking impacts.

Reason: to ensure the existing traffic and parking situation is not negatively impacted by the proposed development.

13. **Noise Environment**

Should the existing noise levels be unreasonably increased as a result of the erection and operation of the subject lighting poles, then Council reserves the right to request a specific Plan of Management detailing noise mitigating measures. This Plan of Management must then be prepared and submitted to the satisfaction of Council.

Reason: to ensure the proposed development does not result in the unreasonable noise impacts on adjoining residential properties.

14. Prior to the release of an Occupational Certificate (or operation of the approved sports field lights), there must be no more than a total of eight (8) light poles with a maximum of two light fittings on each pole for the illumination of the Gardiner Park sports field.

Any additional light poles must be removed prior to the operation of the subject sports field lights.

Reason: To ensure the modelled level of obtrusive light is accurate and in accordance with the submitted Light Services Specification report.

15. The sports field lights are to be automatically extinguished by 9:30pm on training days, Monday – Friday (inclusive). Should the training conclude earlier, the lights are to be extinguished at the earlier concluding time.

Reason: To ensure that the light use does not extend beyond the times of use, or 9:30pm at the latest.

Prior to issue of the construction certificate

The following conditions must be completed prior to the issue of the Construction Certificate.

16. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
- i. A Footpath Reserve Restoration Deposit of \$5,148. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
 - ii. An environmental enforcement fee of 0.25% of the cost of the works.
 - iii. A Soil and Water Management Sign of \$17.50.
17. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap in™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

Prior to commencement of works

The following conditions must be completed prior to the commencement of works.

18. A Soil and Water Management Plan shall be prepared. The Plan must include details of the proposed erosion and sediment controls to be installed on the building site. A copy of the Soil and Water Management Plan must be kept on-site at all times and made available on request.

Soil and sedimentation controls are to be put in place prior to commencement of any work on site. The controls are to be maintained in effective working order during construction.

Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign shall be erected prior to commencement of works and shall be displayed throughout construction.

19. A sign must be erected at the front boundary of the property clearly indicating the Development Approval Number, description of work, builder's name, licence number and house number before commencement of work. If owner/builder, the Owner/Builder Permit Number must be displayed.
20. A Site Health & Safety Plan shall be prepared prior to the commencement of works by a person competent to do so. All works shall be carried out in accordance with this plan. This plan shall include:
- hazard identification (including any contaminated soil) and control
 - site security
 - personal protective equipment
 - work zones

- contingency plans and incident reporting
- environmental monitoring.

During demolition / excavation / construction

The following conditions must be complied with during demolition, excavation and or construction.

21. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
22. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
23. For Class 1 and 10 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's approval and the relevant standards of construction encompassing the following stages:
 - i. after excavation for, and prior to the placement of, any footings, and
 - ii. prior to pouring any in-situ reinforced concrete building element, and
 - iii. prior to covering any stormwater drainage connections, and
 - iv. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request.

24. The following conditions are necessary to ensure minimal impacts during construction:
 - i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
 - ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
 - iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
 - iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
 - v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.

- vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
 - a) spraying water in dry windy weather
 - b) cover stockpiles
 - c) fabric fences
- vii. Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

An all weather drive system or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

In addition builders / demolishers are required to erect a 1.5m high fence along the whole of the street alignment other than at the two openings. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifying Authority, prior to the demolition of the existing structures and commencement of building operations.

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
- 25. Existing site and/or street trees shall be adequately protected from damage during operations.
 - 26. Underground Services such as pipelines or cables to be located close to trees, must be installed by boring or by such other method that will not damage the tree rather than open trench excavation. The construction method must be approved by Council's Tree Management Officer.

Prior to issue of occupation certificate or commencement of use

The following conditions must be complied with prior to issue of the Occupation Certificate or Commencement of Use.

- 27. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 28. **Installation of lighting**
Prior to the issue of an occupation certificate (or completion certificate) a qualified lighting installation professional shall verify that the lighting mast and associated floodlights have been installed in accordance with the Obtrusive Lighting Provisions (i.e. calculation of spill light to nearby residential premises or other sensitive locations) of the AS 4282-1997.

Integrated development/external authorities

The following conditions have been imposed in accordance with Section 91A of the Environmental Planning and Assessment Act, 1979.

29. Sydney Airport Corporation Limited (SACL) has approved the maximum height of the proposed building at 45 metres relative to Australian Height Datum (AHD). Should this height be sought to be exceeded, a new application must be made pursuant to s.183 of the Airport Act 1996. Should the height of any temporary structures and/or equipment be greater than 15.24 metres above existing ground level, a new approval must be sought in accordance with the Civil Aviation (Buildings Control) regulations Statutory Rules 1988 No. 161.
- Note:** Under Section 186 of the Airports Act 1996, it is an offence not to give information to the Airport Operator that is relevant to a proposed “controlled activity” and is punishable by a fine of up to 50 penalty units.
- For further information on Height Restrictions please contact SACL on 9667 9246.

Roads Act

30. Construction related activities must not take place on the roadway without Council approval.

Short-term activities (including operating plant, materials delivery) that reduce parking spaces, affect access to a particular route or prevent or restrict the passage of vehicles along the road must not occur without a valid Temporary Roadside Closure Permit.

Activities involving occupation of the parking lane for durations longer than allowed under a Temporary Roadside Closure Permit require a Construction Zone Permit and must not occur prior to the erection of Works Zone signs by Council's Traffic and Road Safety Section.

Permit application forms should be lodged at Council's Customer Service Centre allowing sufficient time for evaluation. An information package is available on request.

Development consent advice

- a. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- b. *Dial Before You Dig*

Underground assets may exist in the area that is subject to your application. In the interests of health and safety and in order to protect damage to third party assets, please contact Dial before You Dig at www.1100.com.au or telephone on 1100 before excavating or erecting structures (This is the law in NSW). If alterations are required to the configuration, size, form or design of the development upon contacting the Dial before You Dig service, an amendment to the development consent (or a new development application) may be necessary. Individuals owe asset owners a duty of care that must be observed when working in the vicinity of

plant or assets. It is the individual's responsibility to anticipate and request the nominal location of plant or assets on the relevant property via contacting the Dial before You Dig service in advance of any construction or planning activities.

- c. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

Additional Information

- To confirm the date upon which this consent becomes effective, refer to Section 83 of the *Environmental Planning and Assessment Act, 1979*. Generally the consent becomes effective from the determination date shown on the front of this notice. However if unsure applicants should rely on their own enquiries.
- To confirm the likelihood of consent lapsing, refer to Section 95 of the Act. Generally consent lapses if the development is not commenced within five (5) years of the date of approval. However if a lesser period is stated in the conditions of consent, the lesser period applies. If unsure applicants should rely on their own enquiries.
- Section 82A allows Council to reconsider your proposal. Should you wish to have the matter reconsidered you should make an application under that section with the appropriate fee.
- Under Section 97 of the Act applicants who are dissatisfied with the outcome of a consent authority have a right of appeal to the Land and Environment Court. This right must be exercised within six (6) months from the date of this notice. The Court's Office is situated at Level 1, 225 Macquarie Street, Sydney (Telephone 9228 8388), and the appropriate form of appeal is available from the Clerk of your Local Court.

Should you have any further queries please contact Marta M Gonzalez-Valdes on 9562 1666

Luis Melim
Manager - Development Services



- - ELECTRICAL PIT.
- TRENCHING.

EXISTING LIGHT POLES

- - NEW 15M LIGHT POLES WITH 2x2000W FLOOD LIGHTS

Council Meeting

8/03/2017

Item No	9.19
Property	62 Moate Avenue, Brighton Le Sands
Proposal	Demolition of existing structures and construction of a two storey attached dual occupancy with a front fence and torrens title subdivision into 2 lots.
Cost of Development	\$750,000
Report by	Adam Iskander – Development Assessment Planner
Application No	DA-2017/37

Council Resolution

Minute 2017/043

Resolved by the Administrator:

1. That Council support the Clause 4.6 justification submitted by the Applicant to vary the minimum subdivision lot size for dual occupancy contained in Clause 4.1 (3B) of the Rockdale Local Environmental Plan, 2011 (RLEP 2011) for Development Application No. DA2017/37 for 62 Moate Avenue Brighton Le Sands.
 2. That the development application DA2017/37 for the demolition of existing structures and construction of a two storey attached dual occupancy with a front fence and torrens title subdivision into 2 lots at 62 Moate Avenue Brighton Le Sands be APPROVED, pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
 3. That the objectors be advised of Council's decision.
-

Officer Recommendation

1. That Council support the Clause 4.6 justification submitted by the Applicant to vary the minimum subdivision lot size for dual occupancy contained in Clause 4.1 (3B) of the Rockdale Local Environmental Plan, 2011 (RLEP 2011) for Development Application No. DA2017/37 for 62 Moate Avenue Brighton Le Sands.
 2. That the development application DA2017/37 for the demolition of existing structures and construction of a two storey attached dual occupancy with a front fence and torrens title subdivision into 2 lots at 62 Moate Avenue Brighton Le Sands be APPROVED, pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
 3. That the objectors be advised of Council's decision.
-

Attachments

Planning Assessment Report

Architectural Plans

Subdivision Plan

Location Plan



BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/37
Date of Receipt:	1 August 2016
Property:	62 Moate Avenue, BRIGHTON LE SANDS NSW 2216 Lot 28 SecK DP 6718
Owner:	Mr Zena Rachid
Applicant:	M Cubed Design
Proposal:	Demolition of existing structures and construction of a two storey attached dual occupancy with a front fence and torrens title subdivision into 2 lots
Recommendation:	Approved
No. of submissions:	Seven (7)
Author:	Adam Iskander
Date of Report:	21 February 2017

Key Issues

The key issues related to this application are:

- Non-compliance with minimum sub-division lot sizes for dual occupancy;
- Clause 4.6 provided;
- Seven neighbour submissions.

Recommendation

1. That Council support the Clause 4.6 justification submitted by the Applicant to vary the minimum subdivision lot size for dual occupancy contained in Clause 4.1 (3B) of the Rockdale Local Environmental Plan, 2011 (RLEP 2011) for Development Application No. DA-2017 for 62 Moate Avenue Brighton Le Sands.
2. That the development application DA-2017/37 for the demolition of existing structures and construction of a two storey attached dual occupancy with a front fence and torrens title subdivision into 2 lots at 62 Moate Avenue Brighton Le Sands be APPROVED, pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.
3. That the objectors be advised of Council's decision.

Background

History

There is no background history associated with the subject site.

Proposal

Council is in receipt of a development application DA-2017/37 at 62 Moate Avenue Brighton Le Sands, which seeks consent to carry out the demolition of existing structures and construction of a two storey attached dual occupancy with a front fence and torrens title subdivision into 2 lots.

The proposal for each dwelling consists of:

Ground Floor:

- Single front garage;
- Lounge room with attached courtyard, laundry and bathroom;
- Open plan family room, dinning room and kitchen;
- Rear alfresco dinning area and BBQ area;
- Ground floor is elevated 1.4m from NGL recommended by flood advice letter.

First Floor

- Master bedroom with W.I.R, ensuite and front facing balcony;
- Bedrooms 2, 3 and bathroom;
- Bedroom 4 with ensuite; and
- Pitch colorbond roof over.

Site location and context

The subject site is located on the western side of Moate Avenue, between Bestic Street and Rowley Street, Brighton Le Sands. The site is rectangular in shape with a frontage of 15.240m to Moate Avenue with a site area of 696.8sqm. Existing on site is a single storey residential dwelling with a small shed to the rear. The site falls to the rear by 0.86m at an average gradient of 1.8°. One street tree exist at the front of the property.

Surrounding developments consist of single residential dwelling to the north and a two storey residential dwelling to the south. The neighbourhood is characterised with similar residential dwellings, dual occupanices and residential flat buildings. To the far west is Greg Arkin Field, to the south is Coles supermarket and to the far east is Brighton Le Sands beach front.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

S.79C(1) - Matters for Consideration - General

S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

State Environmental Planning Policy (Building Sustainability Index: BASIX) 2004

The applicant has submitted a BASIX Certificate for the proposed development. The Certificate number is 741516S and 741512S

The commitments made result in the following reductions in energy and water consumption:

Reduction in Energy Consumption 43%

Reduction in Water Consumption 41%

Thermal Comfort Pass

A condition has been imposed on the consent to ensure that these requirements are adhered to.

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R3 Medium Density Residential	Yes	Yes - see discussion
2.7 Demolition requires consent	Yes	Yes
4.1 Minimum subdivision lot size	Yes - see discussion	No - see discussion
4.3 Height of buildings	Yes	Yes - see discussion
4.4 Floor space ratio - Residential zones	Yes	Yes - see discussion
4.6 Exceptions to development standards	Yes	Yes - see discussion
6.3 Between 20 and 25 ANEF (2033) contours	Yes	Yes - see discussion
6.4 Airspace operations	Yes	Yes - see discussion
6.12 Essential services	Yes	Yes

2.3 Zone R3 Medium Density Residential

The subject site is zoned R3 - Medium Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as a dual occupancy development which constitutes a permissible development only with development consent. The objectives of this zone are:

- To provide for the housing needs of the community within a medium density residential environment.
- To provide a variety of housing types within a medium density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.

The proposed development is consistent with the objectives of the zone.

4.1 Minimum subdivision lot size

Torrens Title Subdivision of the attached dual occupancy development will result in the following proposed Lots:

Lot 700 - 348.40sqm

Lot 701 - 348.40sqm

The proposal fails to satisfy the minimum numerical requirements of 350sqm per proposed lot.

Accordingly, the application is accompanied by a written Clause 4.6 justification and is addressed below.

4.3 Height of buildings

The height of the proposed building is 8.3m and therefore does not exceed the maximum 8.5m height shown for the land on the Height of Buildings Map.

Further, the proposed development will result in a high quality urban form, maintain satisfactory sky exposure and daylight to buildings, key areas and public domain, and will provide an appropriate transition in built form and land use intensity. Accordingly, the proposed height of the building satisfies the objectives of this clause.

4.4 Floor space ratio - Residential zones

The Gross floor area of the proposed development has been calculated as 413sqm over a site area of 696.8sqm. In this regard, the proposed floor space ratio (FSR) is 0.59:1 and therefore does not exceed the maximum FSR for the land (being 0.60:1) as shown on the Floor Space Ratio Map.

Further, the proposed density is in accordance with the desired future character of the area, will have minimal adverse environmental effects on the use or enjoyment of adjoining properties, and will maintain an appropriate visual relationship between new development and the existing character of area.

Accordingly, the proposed FSR for the development meets the objectives and satisfies the maximum FSR permitted by Clause 4.4 in RLEP 2011.

4.6 Exceptions to development standards

The proposal also includes the Torrens title subdivision of the existing lot into two lots, with each lot having a site area of 348.4sqm. Under Clause 4.1(3B) of RLEP 2011 the minimum lot size for a dual occupancy dwelling is 350sqm. Accordingly, the proposed lots are 1.6sqm below the minimum area required by Clause 4.1 (3B). The application is accompanied by a written Clause 4.6 submission seeking a variation to Clause 4.1(3B) of the RLEP 2011.

The objectives of Clause 4.6 are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development;
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

With regards to the above, the consent authority is required to consider a written request from the

applicant justifying a variation to the standard by demonstrating:

(3)(a) that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, and

(3)(b) that there are sufficient planning grounds to justify contravening the development standard.

Further, clause 4.6(4) requires that development consent must not be granted for development that contravenes a standard unless:

(a) the consent authority is satisfied that:

(i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and

(ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and

(b) Council has the assumed concurrence of the Director-General.

Clause 4.1 - Minimum subdivision lot sizes

The objectives of Clause 4.1 are as follows:

(a) to ensure that subdivision reflects and reinforces the predominant subdivision pattern of the area.

(b) to minimise any likely impact of subdivision, and development on subdivided land, on the amenity of neighbouring properties.

(c) to ensure that lot sizes and dimensions are able to accommodate development consistent with the relevant controls.

The proposed development seeks consent for the Torrens Title Subdivision of an attached dual occupancy resulting in two new Lots with site areas of 348.40sqm per lot, which is 1.6sqm or 0.45% below the minimum subdivision lot size provisions as required by Clause 4.1(3B) of the RLEP 2011.

Accordingly, the application is accompanied by a written Clause 4.6 submission seeking to vary the development standard imposed by the subject Clause. Within the justification, the applicant's statement regarding compliance with the subject Clause is summarised as follows:

The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.

The immediate locality contains a variety of lot sizes and width. The subdivision will not make a big difference to the presentation of the built form on site. The actual short fall of 1.6sqm per lot could not be considered inconsistent with any future development that may subdivide lots into the 350sqm. The shortfall would make no difference to adjoining properties compared to a strictly compliant scheme.

The proposed subdivision is seeking to subdivide the site so each lot is of relatively equal size. The subject site is considered sufficient to accommodate the dual occupancy development and the proposed subdivision will not alter that.

The proposed subdivision does not alter the physical relationship of the buildings to the site and adjacent sites including changes in regards to private open space; landscaping and vehicular

access. The siting of the buildings on the site; proposed access and services have been planned to ensure that each lot can be held under separate ownership.

The strict application of the development standard is unreasonable and unnecessary and the application of the objectives of the development standard have been applied.

Council comment:

The above objectives relate to the subdivision of a residential allotment under RLEP 2011 and compliance with the minimum lot size required under Clause 4.1(3B) as reflected in the associated Lot Size Map. The proposal satisfies the objectives of the Clause where it ensures the predominant subdivision patterns of the area; has acceptable impacts on the amenity of neighbouring properties and ensures the dual occupancy development is consistent with the relevant development controls.

The siting, design and external appearance of the proposed development is considered to be appropriate and complementary to the scale and emerging character of development in the area and will meet the expectations of future residents.

The recent Land and Environmental Court Case 'Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC90' ('Four2Five') requires any variations to the standards to demonstrate something more than just achieving the objectives of the standard. Council has previously abandoned its controls for varying the minimum site area for a dual occupancy development where the shortfall in site area is minor. In this regard, the proposed variation satisfies the 'five part test' established by the NSW Land and Environmental Court where the objectives of the standard have been achieved and the standard has been virtually abandoned by Council in other development applications where Clause 4.1(3B) has also applied.

The requirement in Clause 4.6(3)(b) is to justify that there are sufficient environmental planning grounds for the variation particular to the circumstances of the proposed development. These planning grounds are demonstrated in the proposed design and are successfully argued in the written Clause 4.6 submission. The applicant has also successfully argued that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case.

The applicant's request to vary the development standard is also consistent with the objectives contained in Clause 4.6 as well as those of the R3 - Medium Density Residential Zone. Approval of the proposal would not create an undesirable precedent and is in the public interest. As such, the proposed variation to minimum lot size provisions as contained within Clause 4.1(3B) is recommended for approval.

6.3 Between 20 and 25 ANEF (2033) contours

The proposal was accompanied by an Acoustic Report prepared by Acoustic Noise & Vibration Solutions Pty Ltd dated July 15, 2016, which addresses the matter of aircraft noise and details noise amelioration measures to be incorporated into the construction of the development in order to minimise aircraft noise impacts to future occupants, in compliance with the Australian Standards for indoor design sound levels. The proposed development complies with the requirements and objectives of this clause. A condition has been imposed in the draft Notice of Determination requiring the development to meet with the Australian Standards for indoor design sound levels.

6.4 Airspace operations

The proposed development is affected by the Obstacle Limitation Surface (OLS) which is set at 51m AHD. The building height is at 8.3m (RL12.75) and in this regard, it is considered that the proposed building will have minimal adverse impact on the OLS.

S.79C(1)(a)(ii) - Provisions of any Draft EPI's

At the time of lodgement of the subject development application, the Rockdale Local Environmental Plan, 2011 (RLEP 2011) was in force while a draft housekeeping amendment to the RLEP 2011 has been publically exhibited. Pursuant to the matters for consideration contained within Section 79C(1) of the Environmental Planning and Assessment Act, 1979 (the Act), the provisions contained within each of the applicable EPIs are to be considered in the assessment of the subject development application.

The savings and transitional provisions contained within Clause 1.8A of the RLEP 2011 has the effect of limiting consideration of the provisions contained within the RLEP 2011 to only those applications lodged on or after this date. As such, the application has been considered against the provisions contained within the exhibited draft, although it has little determinative weight. The proposed development, namely a dual occupancy, remains consistent with the aims and objectives of the instrument. Approval of the proposed development would not be inconsistent with the intent and purpose of the instrument and is acceptable in this regard.

S79C(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

The application is subject to Rockdale DCP 2011. A compliance table for the proposed development is provided below:

Relevant clauses	Compliance with objectives	Compliance with standard/provision
4.1.3 Flood Risk Management	Yes	Yes - see discussion
4.1.3 Groundwater Protection	Yes	Yes
4.1.4 Soil Management	Yes	Yes
4.2 Streetscape and Site Context - General	Yes	Yes - see discussion
4.2 Streetscape and Site Context - Fencing	Yes	Yes
4.3.1 Open Space & Landscape Design - Low & medium density residential	Yes	Yes
4.4.2 Solar Access - Low and medium density residential	Yes - see discussion	No - see discussion
4.4.3 Natural Lighting and Ventilation - Residential	Yes	Yes
4.4.5 Visual privacy	Yes	No - see discussion
4.6 Parking Rates - Dual Occupancy	Yes	Yes - see discussion
4.6 Car Park Location and Design	Yes	Yes
5.1 Residential Subdivision	Yes	Yes - see discussion

4.1.3 Flood Risk Management

A Flood Advice Letter dated 4 July 2016 was issued to the owners of the property advising that the property is affected by the 1% annual Exceedance Probability (A.E.P.) flood. The flood advice letter recommends that the minimum habitable floor level of the dual occupancy be raised to 6.25m AHD. The applicant has satisfactorily complied with this requirement.

4.2 Streetscape and Site Context - General

The proposal is located in a R3 Medium Density Zone. The immediate context is relatively low to medium scale, consisting of single storey dwellings, dual occupancies, commercial and mixed use. The proposed dual occupancy is consistent with the desired and future character of the area in terms of height, bulk and scale, and is generally appropriate in this context.

The proposed front setback is consistent with the variable setbacks of surrounding buildings and in this regard the residential streetscape will be retained and complemented.

The proposed built form on site complies with the required height and FSR requirements. The proposed development has been designed with appropriate use of articulation & modulation to the facades via the incorporation of balconies, pedestrian entries at ground level and a range materials which adds visual interest to the facades.

The proposed development will have a front door addressing the street, with the building's frontage and entry points being readily apparent from the street

The proposed development has been designed with front balconies that will provide casual surveillance of the street. Further, the proposed fences, landscaping, and other features have been sited so as to provide clearly defined public, semi public and private spaces.

4.4.2 Solar Access - Low and medium density residential

The adjoining dwelling to the south is situated on a property that has an east-west orientation. The applicant has submitted shadow diagrams for 9 a.m, 12 p.m and 3 p.m on June 21. The shadow diagrams show that the windows to the southern neighbour will not receive the prescribed amount of sunlight of 3 hours between 9am and 3pm on June 21 (middle of winter). However, at least 50% of the private open space will receive sunlight between 9am and 3pm in the middle of winter. It should be noted, that during March and September, the neighbouring property to the south will have 3 hours of solar access between 9am and 3pm.

The shadow elevation diagram provided with the application identifies three windows on the south eastern elevation of the adjoining property during the middle of winter. One window will receive the prescribed amount of solar access (kitchen) while the other two windows (garage and laundry) will be overshadowed between approximately 9am and 1130am and at noon will be half exposed to the sun. As the over-shadowing is on two non-habitable rooms, the impacts of over-shadowing are not assessed as significant to warrant any design changes to the development.

Furthermore, the development has sought to minimise the adverse impact on the adjoining property, where overshadowing of the property is inevitable due to its east-west orientation, by observing the minimum side setbacks, a staggered roof design and minimum ceiling heights on the first floor level. A condition of consent is also recommended requiring that the ground floor be reduced to 2.7m in floor to ceiling height.

It should be noted that the residential subdivision pattern in the street is such that each of the allotments exhibit a predominantly east-west orientation and in this regard the provision of solar access to adjoining residential buildings directly to the south of each allotment is difficult to achieve, as the shadows projected by two storey buildings are consistent with allotments of this orientation and size.

Therefore, the development, which seeks to vary from the minimum standards of RDCP 2011, has demonstrated that the site constraints and orientation prohibit the achievement of these standards.

4.4.5 Visual privacy

The windows on the first floor side elevations are attached to bedrooms 2, 3 and 4 as well as a window to an ensuite and a bathroom. The bathrooms and bedroom 4 will have highlight windows with sill heights measuring 1.6m from finished floor level, which is reasonable and will not create direct over-looking impacts. The windows to bedroom 2 and 3 on both side elevations will be conditioned to be constructed with sill heights measuring 1.6m from finished floor level to reduce the impacts of over-looking. The ensuite windows have been designed with obscure glazing.

The rear elevation has two windows on the first floor level servicing bedroom 4. These windows are separated with one window located near floor level and another window located 1.6m above finished floor level. Both windows are not at eye level and will allow natural light to enter the rooms without generating direct over-looking impacts into the yards of the rear neighbours. In order to minimise the potential for overlooking onto adjoining properties it is recommended that the lower first floor bedroom windows on the north-western elevation (rear elevation) shall be constructed with fixed obscure glazing.

It should be noted that the dual occupancy will be constructed 1.4m from the natural ground level due to minimum flood level requirements. Five windows are proposed on the ground floor level. These windows are to a garage designed with obscure glazing; two windows to a lounge room and dining room with sill heights measuring 1.8m from finished floor level and a sliding door to a courtyard which will be recessed in with a greater setback. These windows and doors will not generate excessive privacy impacts due to their design and location. The fifth window which services the proposed kitchen is designed to be 0.95m from the finished floor level. Taking into consideration that the floor level is 1m above the natural ground level, this window will have direct over-looking impacts to the adjoining neighbours and as such will be conditioned to be constructed with fixed obscure glazing.

Subject to conditions of consent, the proposed development will provide a reasonable level of visual privacy between the adjoining properties.

4.6 Parking Rates - Dual Occupancy

Two car parking spaces are proposed per dwelling, a total of four parking spaces provided with the development. The proposed dual occupancy will have minimal impact on access, parking and traffic in the area as the parking provided is in accordance with Council's DCP 2011. Therefore, it is considered that the proposal is satisfactory in regards to traffic and parking.

5.1 Residential Subdivision

The proposed development seeks consent for the Torrens Title Subdivision of an attached dual occupancy development. The minimum requirement for street frontage and depth of a dual occupancy development is 15m and 25m respectively. The subject site has a primary frontage of 15.24 metres and a depth of 45m with each proposed lot having a frontage to a public road, being Moate Avenue. Each proposed lot also has adequate provision for infrastructure services. As such the proposal satisfies the Objectives of Part 5.1 of RDCP 2011.

S.79C(1)(a)(iv) - Provisions of regulations

The proposed development is not inconsistent with the relevant provisions of the Environmental Planning and Assessment Regulation, 2000.

S.79C(1)(b) - Likely Impacts of Development

Potential impacts related to the proposal have been considered in response to SEPPs, LEP and DCP controls and deemed acceptable. The impacts that have not already been addressed are as follows:

Construction

All matters relating to the BCA are addressed by way of conditions imposed on the draft Notice of Determination. In addition to these, site and safety measures are to be implemented in accordance with relevant WorkCover Authority guidelines and requirements.

S.79C(1)(c) - Suitability of the site

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

S.79C(1)(d) - Public submissions

The development has been notified in accordance with the provisions of Rockdale DCP 2011 and 7 submission have been received. Six of the submissions were individually signed copies of the same letter. The issues raised in the submission are discussed below:

Issue 1: Impacts of over-shadowing;

Comment: The development, which seeks to vary from the minimum standards of RDCP 2011, has demonstrated that the site constraints and orientation prohibit the achievement of these standards. The applicant has submitted shadow diagrams and elevation shadow diagrams in accordance with Part 4.4.2.5 of RDCP 2011. The proposed development has sought to minimise the adverse impact on the adjoining property to the south, where overshadowing of the property is inevitable due to its predominantly east-west orientation by designing the residential building with a relatively low pitch roof on the southern side and complying with the setbacks, height and FSR.

The elevation shadow diagram shows three windows on the adjoining property, two of the windows will be overshadowed, however, these windows will have some sunlight at noon which means the two rooms will receive some of the prescribed 3 hours of solar access as required in RDCP 2011. Furthermore, these two windows service a garage and laundry which are not assessed as habitable rooms. The third window which services the kitchen will receive the prescribed 3 hours of solar access. Given the above, it is considered that the proposed development will not generate excessive overshadowing impacts and is generally compliant with the numerical requirements and Objectives of Part 4.4.2 of RDCP 2011.

Refer to Part 4.4.2 of this report under heading 'Solar Access'.

Issue 2: Over-looking impacts;

Comment: The windows on the side elevations provide solar access and ventilation to bedrooms. Two windows on the side elevations servicing bedrooms 2 and 3 will be conditioned to have sill heights of 1.6m from finished floor level. The other windows are sufficiently designed as obscure glazing or with sill heights measuring 1.6m from finished floor levels. Refer to Section 4.4.5 of this report under heading 'Visual Privacy'.

Issue 3: Impacts of parking and increase of traffic in the area;

Comment: Two car parking spaces are proposed per dwelling, a total of four parking spaces provided with the development. The proposed dual occupancy will have minimal impact on access, parking and traffic in the area as the parking provided is in accordance with Council's DCP 2011. Therefore, it is considered that the proposal is satisfactory in regards to traffic and parking.

Issue 4: Impacts of construction on the local community and parking;

Comment: Several standard conditions of consent will ensure that the construction of the development will have minimal impacts onto the local community in terms of traffic, noise and other environmental impacts.

S.79C(1)(e) - Public interest

The proposed development is considered satisfactory having regard to the objectives and requirements of Rockdale Local Environmental Plan 2011 and Development Control Plan 2011. Impacts on adjoining properties have been considered and addressed. As such it is considered that the proposed development is in the public interest.

S94 Contribution towards provision or improvement of amenities or services

A Section 94 Contribution Payment of \$11,567.83 is payable in accordance with Council's Policy and accordingly, imposed as a condition on the draft Notice of Determination.

Civil Aviation Act, 1988

The site is within an area that is subject to the Civil Aviation (Building Controls) Regulations 1988 made under the *Civil Aviation Act, 1988*.

Civil Aviation (Building Control) Regulations 1988

The Regulations require a separate approval from the Civil Aviation Safety Authority if a building or structure exceeds a prescribed height limit.

Section 5 Prohibition of the construction of buildings of more than 50 feet in height in specified areas

The proposed development is affected by the 15.24m Building Height Civil Aviation Regulations, however the proposed building height at 8.3m will have minimal impact upon the height requirement in the regulations.

Schedule 1 - Draft Conditions of consent

General Conditions

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. The term of this consent is limited to a period of five (5) years from the date of the original approval. The consent will lapse if the development does not commence within this time.

2. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Plan/Dwg No.	Drawn by	Dated	Received by Council
Drawings 2/15 - 9/15, 11/15 and 12/15	M Cubed Designs	4 July 2016	1 August 2016
Sheet 1 of 1 Job# DG 953 and Sheet 2 of 2	KD Stormwater Pty. Ltd	24 July 2016	1 August 2016
Landscape Plan LA-001	Outliers Design Studio	11 July 2016	1 August 2016

3. All new building work must be carried out in accordance with the provisions of the Building Code of Australia (BCA).
4. **A Construction Certificate must be obtained from Council or an Accredited Certifier prior to any building work commencing.**
5. The development must be implemented and all BASIX commitments thereafter maintained in accordance with BASIX Certificate Number 741516S and 741512S other than superseded by any further amended consent and BASIX certificate.
Note: Clause 145(1)(a1) of the Environmental Planning & Assessment Regulation 2000 provides: A certifying authority must not issue a construction certificate for building work unless it is satisfied of the following matters: -
 - (a1) that the plans and specifications for the building include such matters as each relevant BASIX certificate requires.**Note:** Clause 154B(2) of the Environmental Planning & Assessment Regulation 2000 provides: "A certifying authority must not issue a final occupation certificate for a BASIX affected building to which this clause applies unless it is satisfied that each of the commitments whose fulfilment it is required to monitor has been fulfilled."
 Note: For further information please see <http://www.basix.nsw.gov.au>.
6. This approval is not to be construed as permission to erect any structure on or near a boundary contrary to the provisions of the Dividing Fences Act.
7. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.
8. The dwelling located on the northern part of the site shall be known as 62A Moate Avenue Brighton Le Sands and the dwelling located on the southern part of the site shall be known as 62 Moate Avenue, Brighton Le Sands.

Development specific conditions

The following conditions are specific to the Development Application proposal.

9. Windows to bedroom 2 and 3 on both side elevations shall have sill heights of 1.6m above floor level.
10. The floor to ceiling height on the ground floor shall be 2.7m in height except the family room floor to ceiling height which shall remain at 4.1m.
11. The proposed kitchen windows on the north-eastern and south-western elevations and the lower first floor bedroom windows on the north-western elevation shall all be constructed with fixed obscure glazing.
12. The rainwater tank shall be routinely de-sludged and all contents from the de-sludging process disposed – solids to the waste disposal and de-sludged liquid to the sewer.
13. The use of the premises, building services, equipment, machinery and, ancillary fittings shall not give rise to an “offensive noise” as defined under the provisions of the Protection of the Environment Operations Act, 1997.
14. Residential air conditioners shall not cause ‘offensive noise’ as defined by the Protection of the Environment Operations Act 1997 or contravene provisions of the Protection of the Environment (Noise Control) Regulation 2008 where emitted noise from a residential air conditioner can be heard within a habitable room in any other residential premises at night.

Prior to issue of the construction certificate

The following conditions must be completed prior to the issue of the Construction Certificate.

15. The following fees shall be paid to Council prior to the issue of a Construction Certificate. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
 - i. A Footpath Reserve Restoration Deposit of \$2,508.00. This is to cover repair of any damages, or other works to be done by Council. This includes construction, removal, or repair as required to: kerb and guttering, existing or new driveways; paved areas and concrete footpaths. The deposit may be lodged with Council in the form of a Bank Guarantee (Any proposed Bank Guarantee must not have an expiry date). The deposit will not be returned by Council until works are completed and all damage is restored and all specified works are completed by Council.
 - ii. An environmental enforcement fee of 0.25% of the cost of the works.
 - iii. A Soil and Water Management Sign of \$17.50.
16. For work costing \$25,000 or more, a Long Service Leave Levy shall be paid. For further information please contact the Long Service Payments Corporation on their Helpline 13 1441.
17. An application for Boundary levels shall be made to Council's Customer Service Centre prior to issue of the Construction Certificate. All boundary works, egress paths, driveways and fences shall comply with this level.

A fee is payable to Council for the determination of boundary levels. If payment is made after the end of the financial year, the amount shall be adjusted in accordance with Council's adopted fees and charges.
18. A Section 94 contribution of \$11,567.83 shall be paid to Council. Such contributions

are only used towards the provision or improvement of the amenities and services identified below. The amount to be paid is adjusted at the time of payment, in accordance with the contribution rates contained in Council's current Adopted Fees and Charges. The contribution is to be paid prior to the issue of the construction certificate for works above the floor level of the ground floor. (Payment of the contribution is not required prior to any separate construction certificates issued only for demolition, site preparation works and the construction of basement levels). The contribution is calculated from Council's adopted Section 94 contributions plan in the following manner:

Open Space	\$10,046.53	
Town Centre & Streetscape Improvements		\$294.79
Pollution Control	\$1156.59	
Plan Administration & Management		\$69.92

Copies of Council's Section 94 Contribution Plans may be inspected at Council's Customer Service Centre, Administration Building, 444-446 Princes Highway, Rockdale.

19. Prior to the issue of the Construction Certificate the sum of \$1161.00 is payable to Council for removal of the street tree, however as contractors quotes are usually only valid for periods of up to 30 days, this amount is indicative only and is subject to revision prior to payment.
20. A suitable qualified engineer is to certify that the structure can withstand the forces of floodwater, scour, debris and buoyancy in a 1% AEP flood event.
21. All building materials shall be flood resistant, or flood compatible to a height of 500mm above the 1% AEP flood, or flow level. All internal electrical switches, power points or similar utilities liable to flood damage shall be set at a minimum of 500mm above the 1% AEP flood, or flow level. Details shall be provided and approved prior to the issue of a construction certificate.
22. Prior to the issue of the Construction Certificate, the approved plans must be submitted to Sydney Water Tap in™ online service to determine whether the development will affect any Sydney Water sewer or water main, stormwater drains and/or easement, and if further requirements need to be met.

Sydney Water's Tap in™ online service is available at:

<https://www.sydneywater.com.au/SW/plumbing-building-developing/building/sydney-water-tap-in/index.htm>

23. Prior to issue of the Construction Certificate, a longitudinal driveway profile shall be submitted to Principal Certifying Authority for assessment and approval. The profile shall start in the centre of the road and be along the critical edge (worst case) of the driveway. Gradients and transitions shall be in accordance with Council's Code. The profile shall be drawn to a scale of 1 to 25 and shall include all relevant levels, grades (%) and lengths.
24. Any part of the proposed building within 3m of the proposed detention tank or absorption trench shall be constructed on a pier and beam foundation with piers extending no less than 300mm below the bottom of the tank or trench base. This requirement shall be reflected on the Construction Certificate plans and supporting documentation.
25. Prior to the issue of the Construction Certificate, detailed drainage design plans for the management of stormwater are to be submitted in generally according the stormwater plan prepared by KD Stormwater Pty Ltd received by Council dated

1/8/2016 to Principal Certifying Authority for assessment and approval.

Stormwater management plan shall also comply with following but not limited to:

- Absorption trench system shall have full access from end pits of each trenches to facilitate cleaning and maintenance.
- Trenches shall be interconnected at the end pits to provide even distribution of flows

Design certification, in the form specified in Rockdale Technical Specification Stormwater Management, and drainage design calculations are to be submitted with the plans. Council's Rockdale Technical Specification Stormwater Management sets out the minimum documentation requirements for detailed design plans. Stormwater management requirements for the development site, including the final discharge/end connection point, must comply with Rockdale Technical Specification Stormwater Management.

Prior to commencement of works

The following conditions must be completed prior to the commencement of works.

26. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - i. stating that unauthorised entry to the work site is prohibited, and
 - ii. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours. Any such sign is to be removed when the work has been completed. This condition does not apply to:
 - iii. building work carried out inside an existing building or
 - iv. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
27. The site shall be secured by a 1800 mm (minimum) high temporary fence for the duration of the work. Gates shall be provided at the opening points.
28. Toilet facilities must be available or provided at the work site before works begin and must be maintained until the works are completed at a ratio of one toilet plus one additional toilet for every 20 persons employed at the site.

During demolition / excavation / construction

The following conditions must be complied with during demolition, excavation and or construction.

29. A copy of the Construction Certificate and the approved plans and specifications must be kept on the site at all times and be available to Council officers upon request.
30. Hours of construction shall be confined to between 7 am and 6.30 pm Mondays to Fridays, inclusive, and between 8 am and 3.30 pm Saturdays with no work being carried out on Sundays and all public holidays.
31. For Class 1 and 10 structures, the building works are to be inspected during construction, by the principal certifying authority (or other suitably qualified person on behalf of the principal certifying authority) to monitor compliance with Council's

approval and the relevant standards of construction encompassing the following stages:

- i. after excavation for, and prior to the placement of, any footings, and
- ii. prior to pouring any in-situ reinforced concrete building element, and
- iii. prior to covering the framework for any floor, wall, roof or other building element, and
- iv. prior to covering waterproofing in any wet areas, and
- v. prior to covering any stormwater drainage connections, and
- vi. after the building work has been completed and prior to any occupation certificate being issued in relation to the building.

Documentary evidence of compliance with Council's approval and relevant standards of construction is to be obtained prior to proceeding to the subsequent stages of construction and copies of the documentary evidence are to be maintained by the principal certifying authority and be made available to Council officers upon request.

32. Ground water shall only be pumped or drained to Council's stormwater system if the water is clean and unpolluted. The standard used to determine the acceptability of the quality of the water is the 'Australian and New Zealand Environment and Conservation Council - Australian Water Quality Guidelines for Fresh and Marine Waters 1992'.

Note: Prior treatment and/or filtration of the water may be necessary to achieve acceptable quality, including a non-filterable residue not exceeding 50 milligrams/litre or small quantities may be removed by the services of a Licenced Liquid Waste Transporter. It is an offence under the provisions of the Protection of the Environment Operations Act 1997 to pollute the stormwater system.

33. Demolition operations shall not be conducted on the roadway or public footway or any other locations, which could lead to the discharge of materials into the stormwater drainage system.
34. All waste generated on site shall be disposed of in accordance with the submitted Waste Management Plan.
35. All contractors shall comply with the following during all stages of demolition and construction:
- A Waste Container on Public Road Reserve Permit must be obtained prior to the placement of any waste container or skip bin in the road reserve (i.e. road or footpath or nature strip). Where a waste container or skip bin is placed in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Road Opening Permit must be obtained prior to any excavation in the road reserve (i.e. road or footpath or nature strip). Where excavation is carried out on the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.
 - A Hoarding Permit must be obtained prior to the erection of any hoarding (Class A or Class B) in the road reserve (i.e. road or footpath or nature strip). Where a hoarding is erected in the road reserve without first obtaining a permit, the Council's fees and penalties will be deducted from the Footpath Reserve Restoration Deposit. Permits can be obtained from Council's Customer Service Centre.

- A Crane Permit must be obtained from Council prior to the operation of any activity involving the swinging or hoisting of goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway. Permits can be obtained from Council's Customer Service Centre.
 - A current Permit to Dewater or Pump Out a site must be obtained prior to the discharge of pumped water into the road reserve, which includes Council stormwater pits and the kerb and gutter. Permits can be obtained from Council's Customer Service Centre.
36. All demolition work shall be carried out in accordance with AS2601 – 2001: The Demolition of Structures and with the requirements of the WorkCover Authority of NSW.
37. The following conditions are necessary to ensure minimal impacts during construction:
- i. Building, demolition and construction works not to cause stormwater pollution and being carried out in accordance with Section 2.8 of Council's Stormwater Pollution Control Code 1993. Pollutants such as concrete slurry, clay and soil shall not be washed from vehicles onto roadways, footways or into the stormwater system. Drains, gutters, roadways and access ways shall be maintained free of sediment. Where required, gutters and roadways shall be swept regularly to maintain them free from sediment.
 - ii. Stormwater from roof areas shall be linked via a temporary downpipe to an approved stormwater disposal system immediately after completion of the roof area.
 - iii. All disturbed areas shall be stabilised against erosion within 14 days of completion, and prior to removal of sediment controls.
 - iv. Building and demolition operations such as brickcutting, washing tools or paint brushes, and mixing mortar shall not be performed on the roadway or public footway or any other locations which could lead to the discharge of materials into the stormwater drainage system.
 - v. Stockpiles are not permitted to be stored on Council property (including nature strip) unless prior approval has been granted. In addition stockpiles of topsoil, sand, aggregate, soil or other material shall be stored clear of any drainage line or easement, natural watercourse, kerb or road surface.
 - vi. Wind blown dust from stockpile and construction activities shall be minimised by one or more of the following methods:
 - a) spraying water in dry windy weather
 - b) cover stockpiles
 - c) fabric fences
 - vii. Access to the site shall be restricted to no more than two 3m driveways. Council's footpath shall be protected at all times. Within the site, provision of a minimum of 100mm coarse crushed rock is to be provided for a minimum length of 2 metres to remove mud from the tyres of construction vehicles.

An all weather drive system or a vehicle wheel wash, cattle grid, wheel shaker or other appropriate device, shall be installed prior to commencement of any site works or activities, to prevent mud and dirt leaving the site and being deposited on the street. Vehicular access is to be controlled so as to prevent tracking of sediment onto adjoining

roadways, particularly during wet weather or when the site is muddy. Where any sediment is deposited on roadways it is to be removed by means other than washing and disposed of appropriately.

In addition builders / demolishers are required to erect a 1.5m high fence along the whole of the street alignment other than at the two openings. Such protection work, including fences, is to be constructed, positioned and maintained in a safe condition to the satisfaction of the Principal Certifying Authority, prior to the demolition of the existing structures and commencement of building operations.

- viii. Any noise generated during construction of the development shall not exceed limits specified in any relevant noise management policy prepared pursuant to the Protection of the Environment Operations Act, 1997 or exceed approved noise limits for the site.
- 38. Council's warning sign for soil and water management must be displayed on the most prominent point on the building site, visible to both the street and site workers. The sign must be displayed throughout construction. A copy of the sign is available from Council.
- 39. Removal of the Tuckeroo (*Cupaniopsis anacardioides*) street tree to enable construction of the new vehicle crossing is approved, subject to a 200 litre replacement Tuckeroo being planted in a suitable location as part of the landscape planting works.
As street trees are Council assets, removal of the tree must be undertaken by Council or its nominated contractor at the applicant/property owners' cost. Removal or cutting of this tree by anyone other than Council or its nominated contractor will be deemed a breach of Council's Development Consent and may be subject to legal action.
- 40. All existing trees located within the site may be removed.
- 41. Any pruning of branches or roots of trees growing from within adjoining properties requires the prior written consent of the tree's owners and the prior written consent of Council in the form of a Permit issued under Council's Development Control Plan 2011. The work must be carried out in accordance with AS4373:2007 by an experienced Arborist with minimum AQF Level 2 qualifications in Arboriculture.

Prior to issue of occupation certificate or commencement of use

The following conditions must be complied with prior to issue of the Occupation Certificate or Commencement of Use.

- 42. An Occupation Certificate shall be obtained in relation to the approved works prior to any use or occupation of the building.
- 43. Where Council's park/reserve is damaged as a result of building work or vehicular building traffic, this area shall be restored by Council at the applicant's expense. Repairs shall be completed prior to the issue of the Occupation Certificate.
- 44. All excess excavated material, demolition material, vegetative matter and builder's rubbish shall be removed to the Waste Disposal Depot or the Regional Tip prior to final inspection.
Note: Burning on site is prohibited.
- 45. The approved recommendations from the Flood Management Report shall be implemented prior to occupation.
- 46. A 200 litre replacement Tuckeroo street tree shall be planted in a suitable location

within the nature strip at the front of the site in conjunction with landscape planting works on completion of all building and hard landscape construction.

47. All works within the road reserve, which are subject to approval pursuant to Section 138 of the Roads Act 1993, shall be completed and accepted by council.
48. Prior to completion of the building works, a full width vehicular entry is to be constructed to service the property. Any obsolete vehicular entries are to be removed and reconstructed with kerb and gutter. This work may be done using either a Council quote or a private contractor. There are specific requirements for approval of private contractors.
49. Both driveway accesses are required to have a maximum width of 3m at the boundary and separated by 6m along the kerb
50. Prior to occupation, a registered surveyor shall certify that the driveway(s) over the footpath and within the property have been constructed in accordance with the approved driveway profile(s). The certification shall be based on a survey of the completed works. A copy of the certificate and a works-as-executed driveway profile shall be provided to Council if Council is not the Principal Certifying Authority.
51. An appropriately qualified Noise Consultant is to certify that Australian Standard 2021- 2000 Acoustic - Aircraft Noise Intrusion has been met before an occupation certificate will be issued.
52. The noise reduction measures specified in the noise report prepared by Acoustic Noise & Vibrations Solutions Pty Ltd dated 15 July 2016 shall be validated by a Certificate of Compliance prepared by the acoustic consultant and submitted to the Principal Certifying Authority (PCA) prior to the issue of an Occupation Certificate. If Council is not the PCA, a copy shall be submitted to Council concurrently.
53. A certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority (PCA) certifying that the habitable/commercial floor level is constructed a minimum of 500mm above the 1% Annual Exceedance Probability (A.E.P) Flood Level. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.
54. A certificate from a Registered Surveyor shall be provided to the Principal Certifying Authority certifying that the garage floor/parking level is either constructed at or above 1% A.E.P Annual Exceedance Probability (AEP) Flood Level OR [in the case of the garage floor/parking level being below the 1% A.E.P Annual Exceedance Probability (AEP) Flood Level] the garage floor/parking level is protected from inundation to a minimum of 500mm above the 1% A.E.P Annual Exceedance Probability (AEP) Flood Level. A copy of the certificate shall be provided to Council where Council is not the Principal Certifying Authority.
55. Prior to occupation a Chartered Professional Engineer shall certify that the stormwater system has been constructed in accordance with the approved plans and as required by Rockdale Technical Specification Stormwater Management. The certificate shall be in the form specified in Rockdale Technical Specification Stormwater Management and include an evaluation of the completed drainage works. A works-as-executed drainage plan shall be prepared by a registered surveyor based on a survey of the completed works. A copy of the certificate and works-as-executed plan(s) shall be supplied to the Principal Certifying Authority. A copy shall be provided to Council if Council is not the Principal Certifying Authority.
56. All absorption trenches must be inspected, and a compliance certificate under Part 4A of the EP&A Act issued prior to back filling and proceeding to subsequent stages of construction. Copies of the certificate are to be maintained by the principal certifying authority and be made available to Council officers upon request.

57. Flow through open form fencing (louvres or pool fencing) is required for all new front fencing and all internal fences and gates up to the 1% AEP flood level. Any new boundary fences adjoining private property shall have an 80mm gap at the bottom to allow flows through. Documentation shall be provided to Certifying Authority prior to occupation
58. The development shall comply with Rockdale Development Control Plan (DCP) 2011, and the Planning Considerations and Development Controls listed in the Flood Advice letter issued by Council on 4 July 2016.
59. The maximesh screens and removable geotextile are to be installed in the absorption system prior to connection of the downpipes to ensure the effective performance of the system during construction and the long term viability of the system.
60. The owner of the premises is required to comply with the following requirements when installing a rainwater tank:
- Inform Sydney Water that a Rainwater tank has been installed in accordance with applicable requirements of Sydney Water.
 - The overflow from the rainwater tank shall be directed to the storm water system.
 - All plumbing work proposed for the installation and reuse of rainwater shall comply with the NSW Code of Practice: Plumbing and Drainage and be installed in accordance with Sydney Water "Guidelines for rainwater tanks on residential properties.
 - A first flush device shall be installed to reduce the amount of dust, bird faeces, leaves and other matter entering the rainwater tank.

Prior to issue of subdivision certificate

The following conditions must be complied with prior to the issue of the Subdivision Certificate or the Strata Certificate.

61. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the Subdivision/Strata Certificate.

62. All existing and proposed services on the property shall be shown on a plan, and shall be submitted to Council. This includes electricity, gas, water, sewer, stormwater and telephone services. Where any service crosses one lot but benefits another lot, it is to be covered by an easement. The service easement is to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council. These provisions are to be put into effect prior to the release of the

Subdivision/Strata Certificate.

63. A positive covenant shall be provided over the on-site retention system. A Section 88B Instrument and four copies shall be lodged with the Subdivision/Strata Certificate.
64. Council will not issue the Subdivision Certificate unless the following has been provided to Council :
 - WorksAsExecuted Plan for Stormwater Drainage System
 - Engineer's Compliance certificate for Stormwater Drainage System & work as executed drawing
 - Final Occupation Certificate
 - Utility Service Plan
 - Original of Section 73 Compliance Certificate referring to Subdivision – (Sydney Water Act 1994)
 - Landscape certification (if Council not appointed as PCA)
 - Administration Sheet and 88B instruments prepared by a qualified surveyor

Roads Act

65. The following works will be required to be undertaken in the road reserve at the applicant's expense:
 - i) construction of a new fully constructed concrete vehicular entrance/s;
 - ii) removal of the existing concrete vehicular entrance/s, and/or kerb laybacks which will no longer be required;
 - iii) removal of redundant paving;
 - iv) smooth transition with new driveways and footpath areas
66. All footpath, or road and drainage modification and/or improvement works to be undertaken in the road reserve shall be undertaken by Council, or by a Private Licensed Contractor subject to the submission and approval of a Private Contractor Permit, together with payment of all inspection fees. An estimate of the cost to have these works constructed by Council may be obtained by contacting Council. The cost of conducting these works will be deducted from the Footpath Reserve Restoration Deposit, or if this is insufficient the balance of the cost will be due for payment to Council upon completion of the work.
67. This Roads Act approval does not eradicate the need for the Contractor to obtain a Road Opening Permit prior to undertaking excavation in the road or footpath.
68. Any driveway works to be undertaken in the footpath reserve by a private contractor requires an "Application for Consideration by a Private Contractor" to be submitted to Council together with payment of the application fee. Works within the footpath reserve must not start until the application has been approved by Council.
69. Following completion of concrete works in the footpath reserve area, the balance of the area between the fence and the kerb over the full frontage of the proposed development shall be turfed with either buffalo or couch (not kikuyu) or landscaped. If landscaping is proposed rather than turfing, details shall be submitted to the Property and Community Services Department for approval.

Development consent advice

- a. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in

order to fully understand their requirements before commencement of any work.

- b. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- c. All asbestos fibre demolition material and asbestos dust shall be handled, stored and removed in accordance with the relevant legislation and guidelines including:
 - Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2011
 - Code of Practice for the Safe Removal of Asbestos [NOHSC: 2002 (2005)]
 - Code of Practice for the Management and Control of Asbestos in Workplaces [NOHSC: 2018 (2005)]
 - Protection of the Environment Operations (Waste) Regulation 2005

All work procedures shall be devised to minimise the release of dust and fibres. A checklist of safety precautions when working with asbestos is available in Health & Safety Guidelines prepared by the WorkCover Authority of NSW. Collection, storage and transportation is subject to the Protection of the Environment Operations (Waste) Regulation 2005.

- d. Hazardous and/or intractable wastes arising from the demolition process shall be removed and disposed of in accordance with the requirements of the relevant statutory authorities (NSW WorkCover Authority and the NSW Environment Protection Authority), together with the relevant regulations, including:
 - Work Health and Safety Act 2011
 - Work Health and Safety Regulation 2011
 - Protection of the Environment Operations (Waste) Regulation 2005.
- e. Demolition and construction shall minimise the emission of excessive noise and prevent “offensive noise” as defined in the Protection of the Environment Operations Act 1997. Noise reduction measures shall include, but are not limited to the following strategies:
 - choosing quiet equipment
 - choosing alternatives to noisy activities
 - relocating noise sources away from affected neighbours
 - educating staff and contractors about quiet work practices
 - informing neighbours of potentially noise activities in advance
 - equipment, such as de-watering pumps, that are needed to operate on any evening or night between the hours of 8 p.m. and 7 a.m. or on any Sunday or Public Holiday, shall not cause a noise nuisance to neighbours of adjoining or nearby residences. Where the emitted noise exceeds 5 dB(A) [LAeq(15m)] above the background sound level [LA90] at the most affected point on the nearest residential boundary at any time previously stated, the equipment shall be acoustically insulated, isolated or otherwise enclosed so as to achieve the sound level objective.
- f. The water from the rainwater tank should not be used for drinking, Sydney Water

shall be advised of the installation of the rainwater tank.

- g. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.

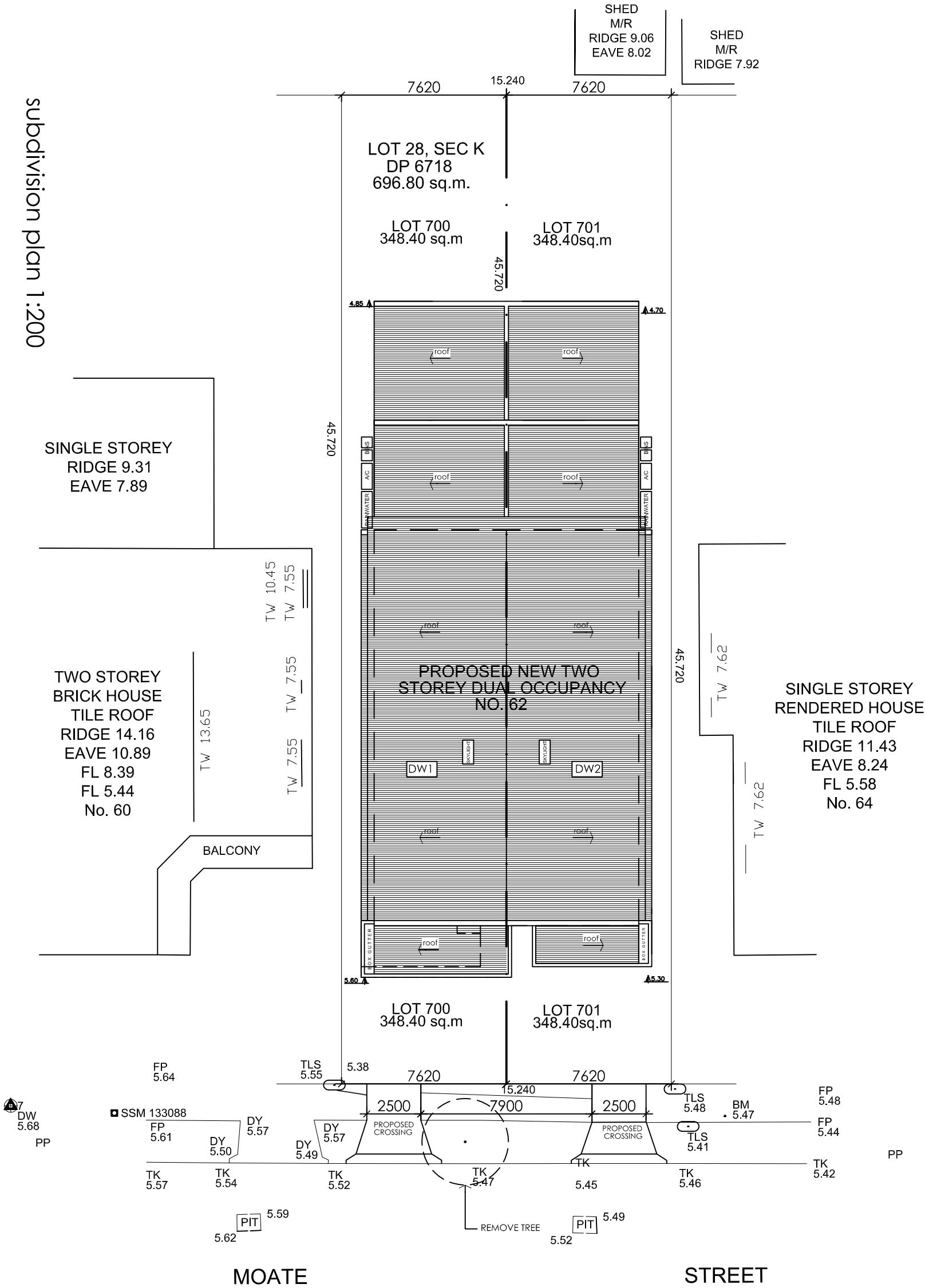
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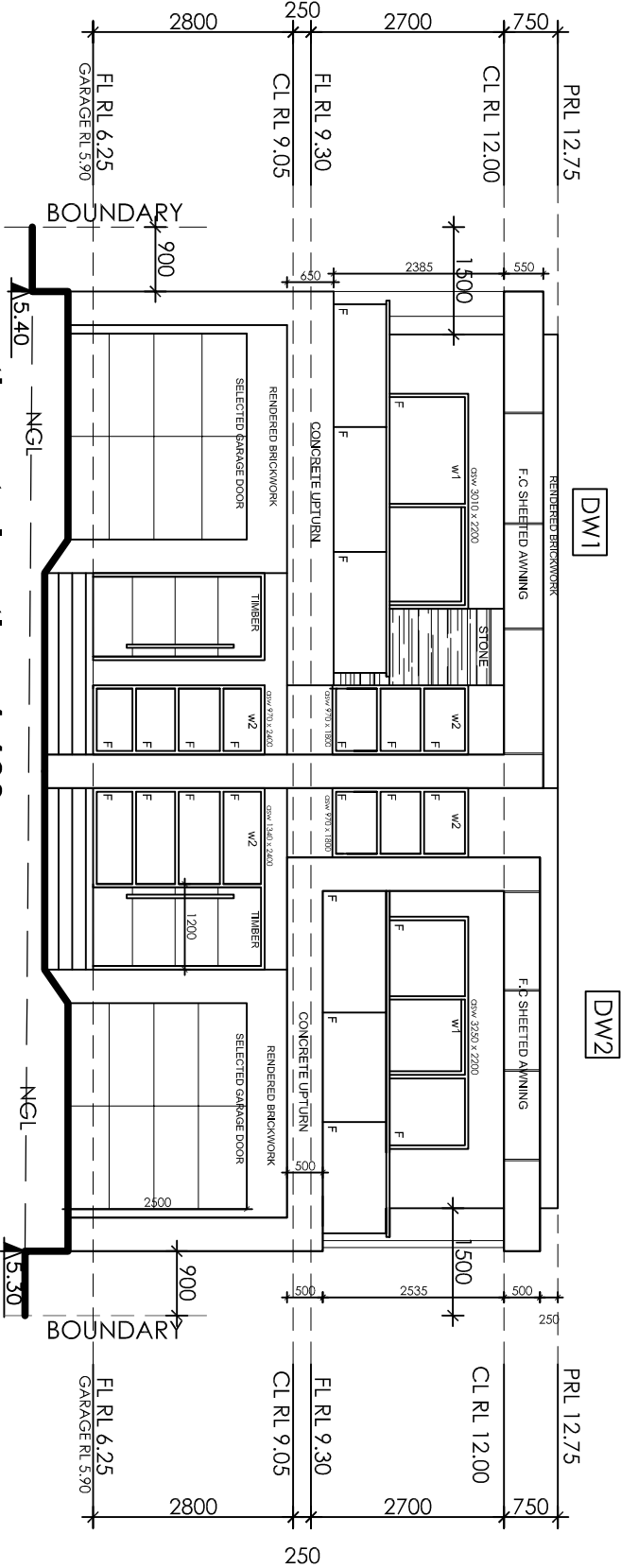


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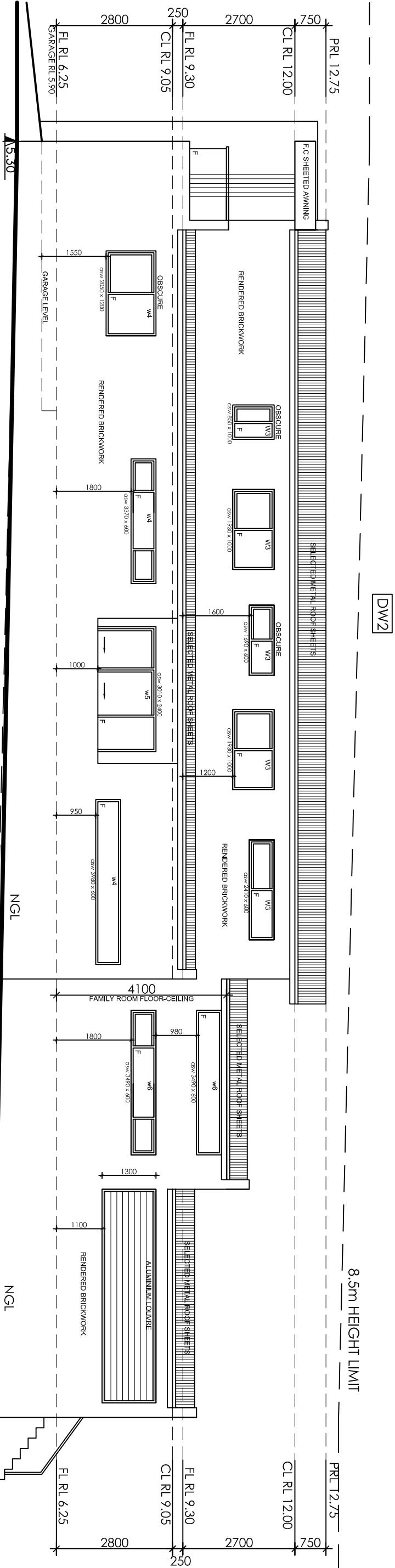
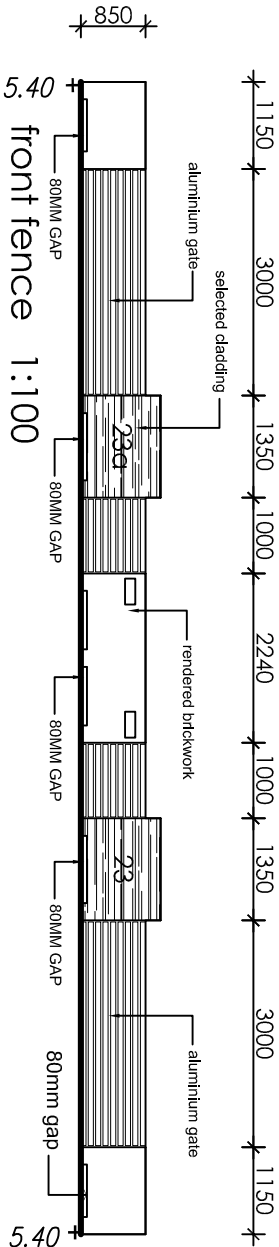
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cert 4 building studies, ABSA accredited #20858
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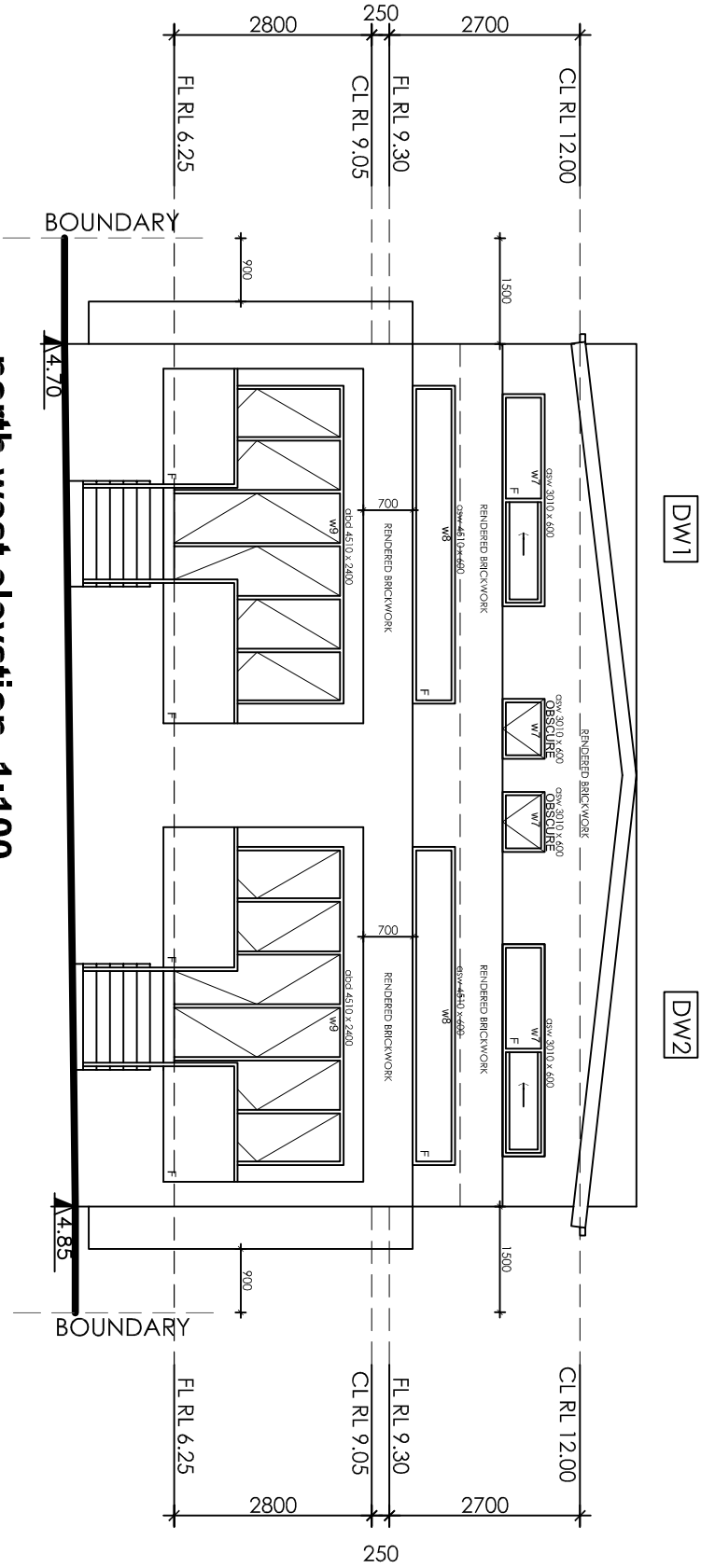
subdivision plan 1:200





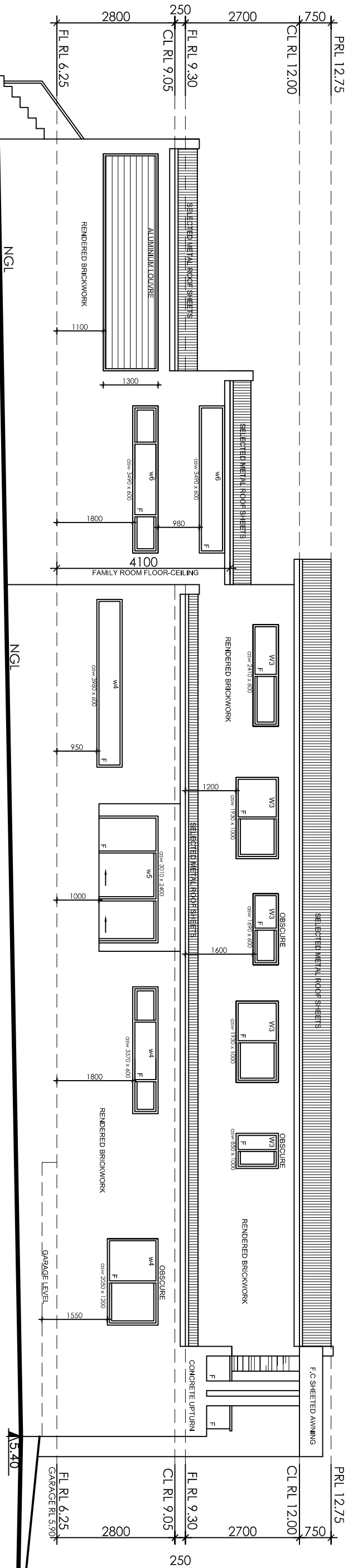
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<u>BRICKWORK:</u>	RENDERED PAINTED LIGHT GREY/ FACE BRICK WHISPER WHITE (DULUX)/DARK GREY
<u>ROOF TILES:</u>	METAL ROOF (COLORBOND "SURFMASTER")
<u>WINDOWS:</u>	SILVER ALUMINIUM FRAME
<u>BRICK COLUMNS/ PARAPETS</u>	RENDERED AND PAINTED GREY
<u>GARAGE DOOR</u>	CHARCOAL/ TIMBER
<u>FRONT DOOR:</u>	TIMBER
<u>RAILINGS:</u>	GLASS
<u>WEATHERBOARD:</u>	LIGHT GREY TO MATCH WALLS





MATERIALS COLOUR SCHEDULE	
BRICKWORK:	RENDERED PAINTED LIGHT GREY/ FACE BRICK WHISPER WHITE (DULUX)/DARK GREY
ROOF TILES:	METAL ROOF (COLORBOND "SURFMAST")
WINDOWS:	SILVER ALUMINIUM FRAME
BRICK COLUMNS/ PARAPETS	RENDERED AND PAINTED GREY
GARAGE DOOR	CHARCOAL/ TIMBER
FRONT DOOR:	TIMBER
RAILINGS:	GLASS
WEATHERBOARD:	LIGHT GREY TO MATCH WALLS

8.5m HEIGHT LIMIT



south-west elevation 1:100

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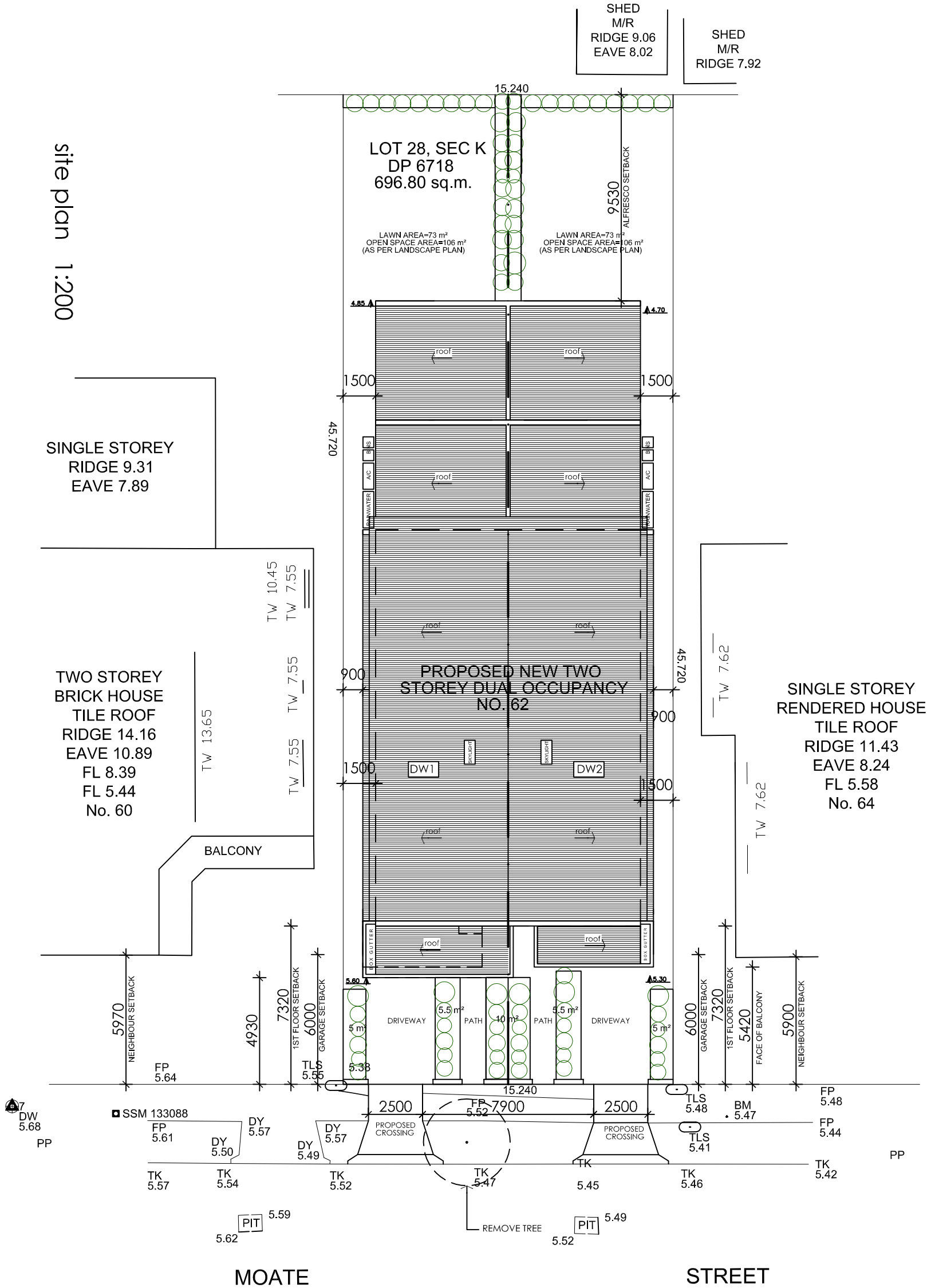
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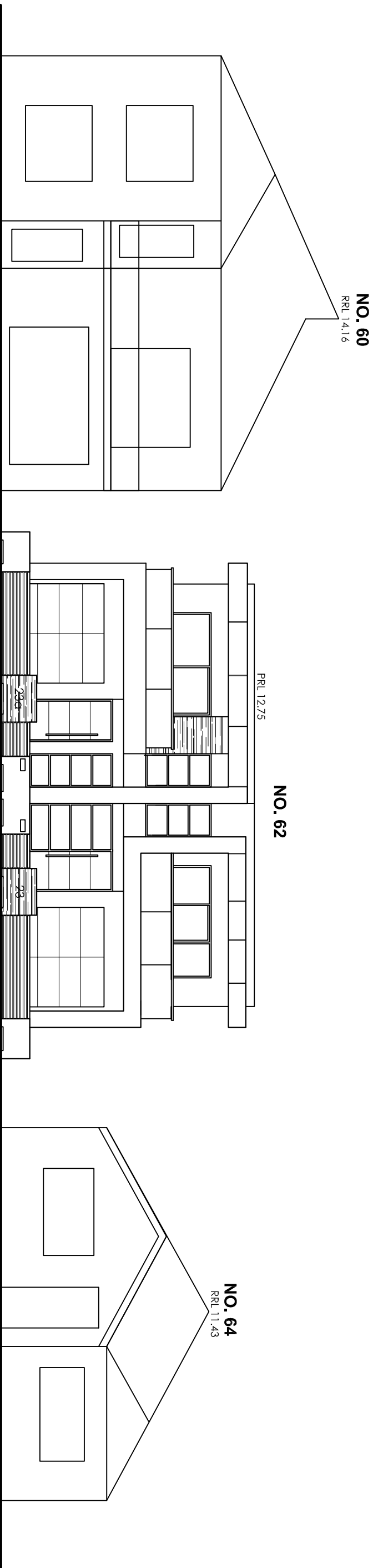
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site plan 1:200



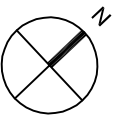
CALCULATIONS:	
site area:	696.80 sq.m
allowed FSR area 60%:	418.10 sq.m
DWELLING 1	
total site DW 1:	348.40 sq.m
total ground floor area:	130 sq.m
total 1st floor area:	104 sq.m
total allowed area:	211.50 sq.m
total voids:	5.5 sq.m
total Proposed Floor area:	208 sq.m
garage:	20.50 sq.m
private open space:	106 sq.m
DWELLING 2	
total site DW 2:	348.80 sq.m
total ground floor area:	130 sq.m
total 1st floor area:	105 sq.m
total allowed area:	211.50 sq.m
total voids:	5.5 sq.m
total Proposed Floor area:	209 sq.m
garage:	20.50 sq.m
private open space:	106 sq.m
LANDSCAPING	
total soft landscaping:	181 sq.m 25.6% of site
total floor area:	416 sq.m 59.70% of site



streetscape elevation NOT TO SCALE

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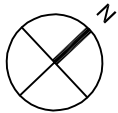
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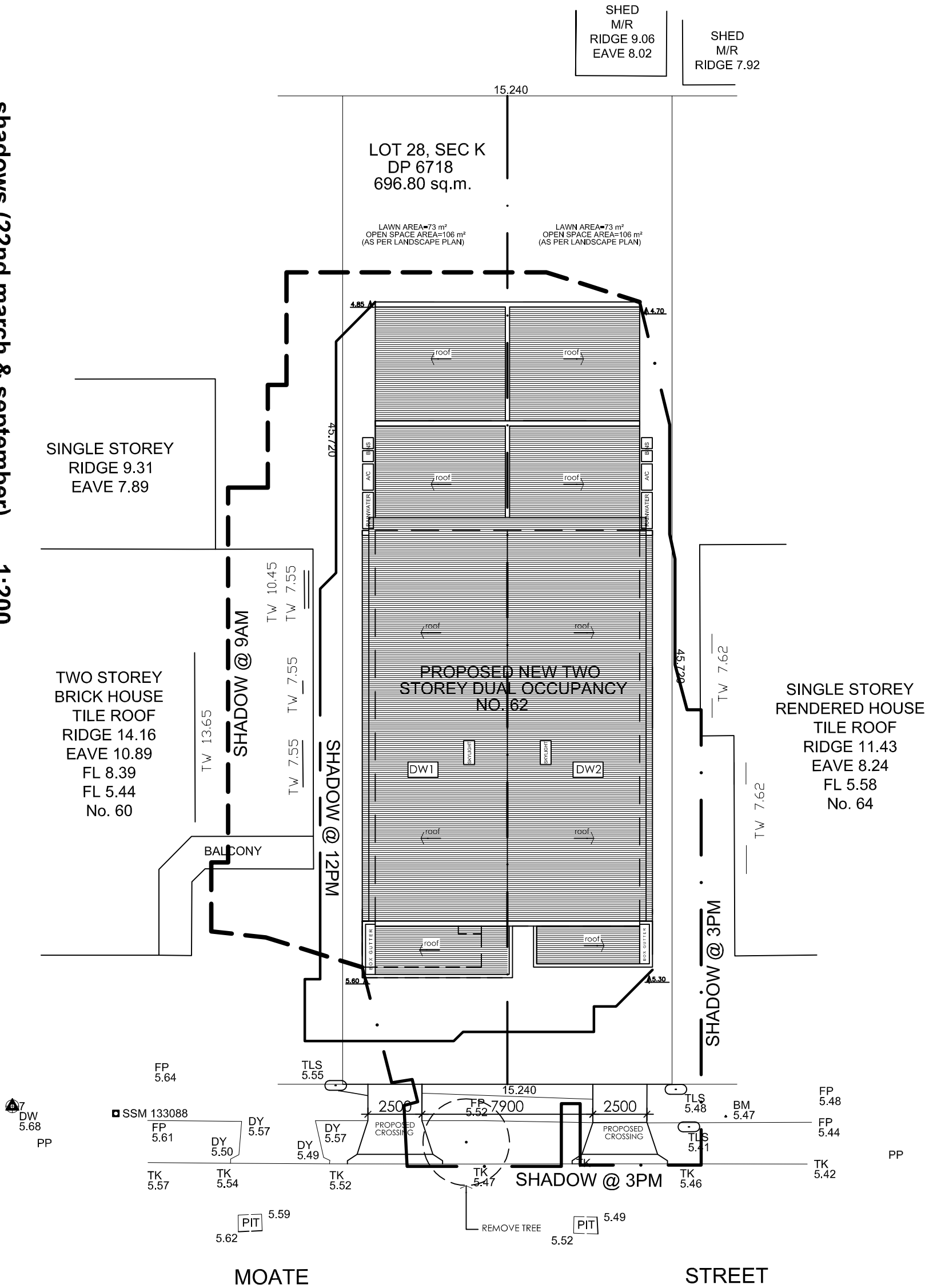
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shadows (22nd march & september) 1:200



Council Meeting

8/03/2017

Item No	9.20
Property	12 Bonalbo Street, KINGSGROVE
Proposal	Torrens title subdivision of dual occupancy creating two lots
Cost of Development	\$ 1,000.00
Report by	Luis Melim, Manager – Development Services
Application No	DA-2017/103

Council Resolution

Minute 2017/044

Resolved by the Administrator:

1. That Council accept the Clause 4.6 justification submitted by the Applicant to vary the minimum subdivision for dual occupancy in accordance with Clause 4.1 (3B) of the Rockdale Local Environmental Plan, 2011 (RLEP 2011).
 2. That the development application DA-2017/103 for the Torrens title subdivision of a dual occupancy creating two lots at 12 Bonalbo Street , KINGSGROVE be APPROVED pursuant to section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this Report.
-

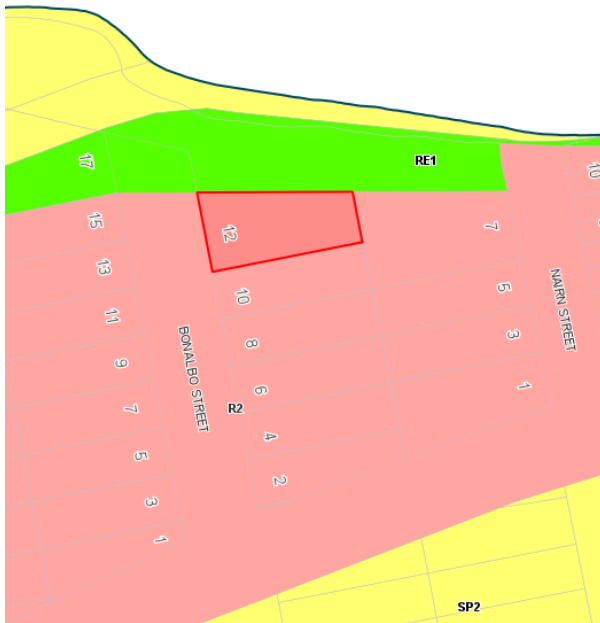
Officer Recommendation

1. That Council accept the Clause 4.6 justification submitted by the Applicant to vary the minimum subdivision for dual occupancy in accordance with Clause 4.1 (3B) of the Rockdale Local Environmental Plan, 2011 (RLEP 2011).
 2. That the development application DA-2017/103 for the Torrens title subdivision of a dual occupancy creating two lots at 12 Bonalbo Street , KINGSGROVE be APPROVED pursuant to section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this Report.
-

Attachments

- 1 Planning Assessment Report
 - 2 Site Plan
 - 3 Subdivision Plan
-

Location Plan



BAYSIDE COUNCIL

Planning Assessment Report

Application Details

Application Number:	DA-2017/103
Date of Receipt:	26 September 2016
Property:	12 Bonalbo Street, KINGSGROVE NSW 2208 Lot 97 DP 15431
Owner:	Mrs Kaliopi Perantuono
Applicant:	Saf Developments
Proposal:	Torrens title subdivision of dual occupancy creating two lots
Recommendation:	Approved
No. of submissions:	Nil
Author:	Adam Iskander
Date of Report:	11 January 2017

Key Issues

The key issues related to this application are:

- Non-compliance with minimum site area for dual-occupancy.

Recommendation

That this Development Application be **APPROVED** pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

1. That Council support the variation to the minimum subdivision lot size as contained in clause 4.1(3B) of the Rockdale Local Environmental Plan 2011 in accordance with the clause 4.6 request submitted by the applicant.
2. That Development Application DA-2017/103 for the subdivision of the site into two lots under Torrens Title subdivision at 12 Bonalbo Street, Kingsgrove be APPROVED pursuant to Section 80(1)(a) of the Environmental Planning and Assessment Act 1979 and subject to the conditions of consent attached to this report.

Background

History

Council's records show that the following applications were previously lodged:

- DA- 1999/946 for a dual occupancy development, was approved on 13 October 1999
- DA-2000/808 for a S96 application to delete condition 94 in order to permit a front setback of 6m was approved 25 February 2000;
- DA-2000/963 for a S96 application for internal alterations and relocation of garages to the dual occupancy was approved 3 May 2000;
- CC-2001/413 lodged for Dual occupancy development was approved 17 January 2001;
- DA-2002/786 for in ground swimming pool was approved 4 April 2002;
- CC-2002/520 for in ground swimming pool was approved 28 May 2002;
- BC-2015/68 for a dual occupancy development was refused 28 July 2015. The reasons for the refusal were based on unsatisfactory completion of conditions of consent, most relevant being drainage details, certificate from a chartered professional engineer certifying drainage and works-as-executed plans ; and
- BC-2017/8 for unapproved development - front fence, rear pergola and awning is still under assessment.

The proposed subdivision will have no impacts on the outcome of any future Occupation Certificate. The dual occupancy has been generally constructed in accordance with the originally stamped approved plans as per DA-1999/946. Council's engineers have recommended several conditions of consent with this application to address the issues of storm water.

Proposal

Council is in receipt of a development application DA-2017/103 at 12 Bonalbo Street, KINGSROVE, NSW 2208 which seeks consent to carry out the torrens title subdivision of 12 Bonalbo Street.

The proposal consists of:

- Lot 700 with a site area of 297.95sq.m; and
- Lot 701 with a site area of 362.03sqm.

Site location and context

The subject site is known as Lot 97 DP 15431, 12 Bonalbo Street, KINGSGROVE. The site is irregular in shape with a front boundary of 20.725m, side boundaries measuring 39.75m and 39.015m and a rear boundary of 13.105m. The total site area is 659.98sq.m.

The subject site contains a two storey attached dual occupancy. The site is located on the eastern side of Bonalbo Street, between Kingsgrove Avenue Park and Kingsgrove Avenue. Adjoining development to the sides includes Kingsgrove Park to the North and a two storey residential dwelling to the south. A two storey residential dwelling is situated on the rear property. There is a mix of one storey and two storey residential buildings within close proximity to the subject property.

No trees are to be removed.

Statutory Considerations

Environmental Planning and Assessment Act, 1979

An assessment of the application has been undertaken pursuant to the provisions of the *Environmental Planning and Assessment Act, 1979*.

S.79C(1) - Matters for Consideration - General

S.79C(1)(a)(i) - Provisions of Environmental Planning Instruments

The following Environmental Planning Instruments are relevant to this application:

Rockdale Local Environmental Plan 2011

Relevant clauses	Compliance with objectives	Compliance with standard/provision
2.3 Zone R2 Low Density Residential	Yes	Yes - see discussion
2.6 Subdivision - consent requirements	Yes	Yes
4.1 Minimum subdivision lot size	Yes	No - see discussion
Dual occupancy	Yes	Yes
4.6 Exceptions to development standards	Yes - see discussion	Yes - see discussion
6.7 Stormwater	Yes	Yes
6.12 Essential services	Yes	Yes

2.3 Zone R2 Low Density Residential

The subject site is zoned R2 - Low Density Residential under the provisions of Rockdale Local Environmental Plan 2011 (RLEP 2011). The proposal is defined as torrens title subdivision which constitutes a permissible development only with development consent. The objectives of the zone are:

- To provide for the housing needs of the community within a low density residential environment.
- To enable other land uses that provide facilities or services to meet the day to day needs of residents.
- To ensure that land uses are carried out in a context and setting that minimises any impact on the character and amenity of the area.

The proposed development is consistent with the objectives of the zone.

4.1 Minimum subdivision lot size

Torrens Title Subdivision of the attached dual occupancy development will result in the following proposed Lots:

Lot 700 - 297.95sqm

Lot 701 - 362.03sqm

The proposal fails to satisfy the minimum numerical requirement of 350sqm for site area for Lot 701. Accordingly, the application is accompanied by a written Clause 4.6 justification and is addressed below.

4.6 Exceptions to development standards

The proposed development seeks consent for the Torrens Title Subdivision of an attached dual occupancy resulting in two new lots with site areas of 297.95sqm for Lot 700 and 362.03sqm for Lot 701. Lot 700 is below the minimum subdivision lot size provisions as required by Clause 4.1(3B) of the RLEP 2011. The deficiency in minimum site area is by 52.05sqm or 14.9% for proposed Lot 700.

The objectives of Clause 4.6 are as follows:

- (a) to provide an appropriate degree of flexibility in applying certain development standards to particular development;
- (b) to achieve better outcomes for and from development by allowing flexibility in particular circumstances.

With regards to the above, the consent authority is required to consider a written request from the applicant justifying a variation to the standard by demonstrating:

- (3)(a) that compliance with the development standard is unreasonable and unnecessary in the circumstances of the case, and
- (3)(b) that there are sufficient planning grounds to justify contravening the development standard.

Further, clause 4.6(4) requires that development consent must not be granted for development that contravenes a standard unless:

- (a) the consent authority is satisfied that:
 - (i) the applicant's written request has adequately addressed the matters required to be demonstrated by subclause (3), and
 - (ii) the proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out, and
- (b) Council has the assumed concurrence of the Director-General.

Clause 4.1 - Minimum subdivision lot sizes

The objectives of Clause 4.1 are as follows:

- (a) to ensure that subdivision reflects and reinforces the predominant subdivision pattern of the area.
- (b) to minimise any likely impact of subdivision, and development on subdivided land, on the amenity of neighbouring properties.
- (c) to ensure that lot sizes and dimensions are able to accommodate development consistent with the relevant controls.

The application is accompanied by a written Clause 4.6 submission seeking to vary the development standard imposed by the subject Clause. Within the justification, the applicant's statement regarding compliance with the subject Clause is summarised as follows:

- The proposed development will be in the public interest because it is consistent with the objectives of the particular standard and the objectives for development within the zone in which the development is proposed to be carried out.
- The shortfall would make no difference to adjoining properties compared to a strictly compliant scheme.
- The subject site is considered sufficient to accommodate the dual occupancy development and the proposed subdivision will not alter that.
- The proposed subdivision does not alter the physical relationship of the buildings to the site and

adjacent sites including changes in regards to private open space; landscaping and vehicular access.

- The siting of the buildings on the site; proposed access and services have been planned to ensure that each lot can be held under separate ownership.
- The dual occupancy was constructed in 2000 and was assessed under a different standard known as DCP 39 which allowed for the construction of a dual occupancy on a minimum land size of 500sqm. The subject site has a site area of 659.98sqm. The application was compliant in terms of minimum site area.
- The strict application of the development standard is unreasonable and unnecessary and the application of the objectives of the development standard have been applied.

Council comment:

The above objectives relate to the subdivision of a lot within Bayside Council and compliance with the minimum lot size required under clause 4.1(3) as reflected in the associated Lot Size Map. As subdivision is proposed, Clause 4.1(3B) is relevant. The minimum lot size required in accordance with this Clause is 350sqm, and the resultant lot sizes for one of the Lots is 297.95 sqm.

The proposal satisfies the Objectives of the Clause for Minimum subdivision lot size where it ensures the subdivision has no impacts on the amenity of neighbouring properties and ensures that the semi-detached dual occupancy is consistent with the relevant development controls.

It should be noted that the subject site has an existing dual occupancy on site which was approved by Council in 1999, with the original DA assessed under the the relevant DCP applicable to the site at the time, being DCP 39 - Dual Occupancy and Granny Flat Development. This DCP required a minimum allotment size of 500sqm for dual occupancy development and permitted the subdivision of attached dual occupancy development on sites with a minimum area of 500sqm. The subject site comprised a total area of 659.98sqm. On 7 July 2005, DCP 39 was amended to require a 700sqm lot size for dual occupancy development. On the 5 December 2011, Rockdale LEP 2011 was gazetted, with the incorporation of a 350sqm subdivision lot size requirement for dual occupancy development.

The recent Land Environmental Court Case 'Four2Five Pty Ltd v Ashfield Council [2015] NSWLEC 90' ('Four2Five') requires any variations to the standards to demonstrate something more than just achieving the Objectives of the standard. The applicant has demonstrated that Council has previously abandoned its controls for varying the minimum site area for a dual occupancy which was approved under a previous standard .

The variation to Minimum subdivision on lot size standard satisfies the 'five part test' established by the NSW Land and Environmental Court where the objectives of the standard have been achieved and the standard has been virtually abandoned by Council in previous development applications in this specific circumstance.

The requirement in cl4.6(3)(b) is to justify that there are sufficient environmental planning grounds for the variation particular to the circumstances of the proposed development. These planning grounds are demonstrated in the proposed design and are sufficiently argued in the 4.6 variation submission. The applicant has also demonstrated that compliance with the development standard is unreasonable and unnecessary in this circumstance.

The applicant's request to vary development standard Clause 4.1 (3B) (a), is also consistent with the

objectives in Clause 4.6 (Exceptions to development standards) as well as the objectives in development standards for the R2 Residential Zone area.

Approval of the proposal would not create an undesirable precedent and is in the public interest. As such the proposed variation for the dwelling is supported in this instance.

S79C(1)(a)(iii) - Provisions of any Development Control Plan

The following Development Control Plan is relevant to this application:

Rockdale Development Control Plan 2011

The application is subject to Rockdale DCP 2011. A compliance table for the proposed development is provided below:

Relevant clauses	Compliance with objectives	Compliance with standard/provision
5.1 Residential Subdivision	Yes - see discussion	No - see discussion

5.1 Residential Subdivision

The proposal is for subdivision of a lot which has an existing dual occupancy on site which was constructed in 2000. Although the subject site does not satisfy the minimum lot size requirement of 700sqm, the subdivision is assessed as having minimal adverse impacts onto the environment and will have minimal impacts onto the adjoining neighbours.

The site has a frontage of 20.725m with a depth greater than 25m. Each new lot will have a frontage of greater than the minimum requirement of 6m. Both dwellings have vehicular access fronting Bonalbo Street. The new allotments will have adequate provisions for infrastructure services. The application satisfies the residential subdivision requirements under Part 5.1 of RDCP 2011.

S.79C(1)(a)(iv) - Provisions of regulations

All relevant provisions of the Regulations have been taken into account in the assessment of this proposal.

S.79C(1)(c) - Suitability of the site

The relevant matters pertaining to the suitability of the site for the proposed development have been considered in the assessment of the proposal. Additional conditions of consent are proposed to further minimise any impacts on neighbouring properties. There are no known major physical constraints, environmental impacts, natural hazards or exceptional circumstances that would hinder the suitability of the site for the proposed development.

S.79C(1)(d) - Public submissions

The development has not been notified in accordance with the provisions of Rockdale DCP 2011.

S.79C(1)(e) - Public interest

The proposed development is considered satisfactory having regard to the objectives and requirements of Rockdale Local Environmental Plan 2011 and Development Control Plan 2011. Impacts on adjoining properties have been considered and addressed. As such it is considered that the proposed development is in the public interest.

Schedule 1 - Draft Conditions of consent

General Conditions

The following conditions restrict the work to the detail provided in the Development Application and are to ensure that the development is complete.

1. The term of this consent is limited to a period of five (5) years from the date of the original approval. The consent will lapse if the development does not commence within this time.
2. The development must be implemented substantially in accordance with the plans listed below, the application form and on any supporting information received with the application, except as may be amended in red on the attached plans and by the following conditions.

Plan/Dwg No.	Drawn by	Dated	Received by Council
DA01 and DA02 Issue A	Saf Developments	20 September 2016	1 December 2016

3. Mail boxes must be installed along the street frontage of the property boundary in accordance with Australia Post Guidelines. Prominent house numbers are to be displayed, with a minimum number size of 150 mm in height for each number and letter in the alphabet.
4. The dwelling located on the northern part of the site shall be known as 12A Bonalbo Street and the dwelling located on the southern part of the site shall be known as 12 Bonalbo Street.

Prior to issue of subdivision certificate

The following conditions must be complied with prior to the issue of the Subdivision Certificate or the Strata Certificate.

5. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained from Sydney Water Corporation.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the Building Developing and Plumbing section of the web site www.sydneywater.com.au then refer to "Water Servicing Coordinator" under "Developing Your Land" or telephone 13 20 92 for assistance.

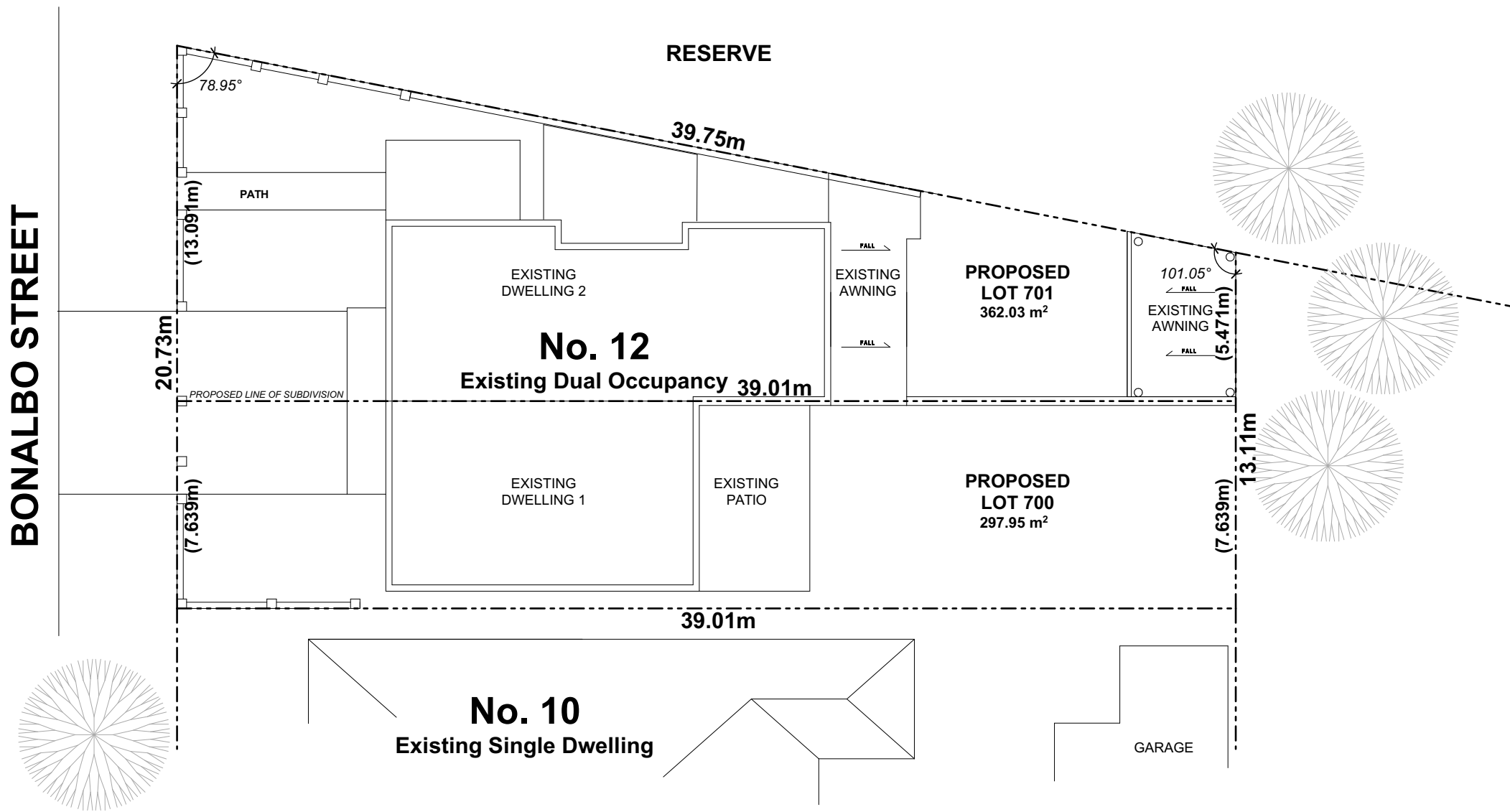
Following application a "Notice of Requirements" will advise of water and sewer infrastructure to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer infrastructure can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the Subdivision/Strata Certificate.

6. All existing and proposed services on the property shall be shown on a plan, and shall be submitted to Council. This includes electricity, gas, water, sewer, stormwater and telephone services. Where any service crosses one lot but benefits another lot, it is to be covered by an easement. The service easement is to be covered by a Section 88B Instrument, which may only be varied or extinguished with the consent of Bayside Council. These provisions are to be put into effect prior to the release of the Subdivision/Strata Certificate.
7. A positive covenant shall be provided over the on-site detention system. A Section 88B Instrument and four copies shall be lodged with the Subdivision/Strata Certificate.
8. Council will not issue the Subdivision Certificate unless the following has been provided to Council :
 - Works-As-Executed Plan for Stormwater Drainage System
 - Engineer's Compliance certificate for Stormwater Drainage System
 - Final Occupation Certificate
 - Utility Service Plan
 - Original of Section 73 Compliance Certificate referring to Subdivision – (Sydney Water Act 1994)
 - Landscape certification (if Council not appointed as PCA)
 - Administration Sheet and 88B instruments prepared by a qualified surveyor
 - Proof of positive covenant for detention/retention system lodgement with LPI

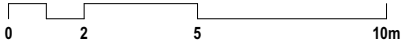
Development consent advice

- a. You are advised to consult with your utility providers (i.e. Energy Aust, Telstra etc) in order to fully understand their requirements before commencement of any work.
- b. Where Council is not engaged as the Principal Certifying Authority for the issue of the Subdivision Certificate (Strata), and the Section 88B Instrument contains easements and/or covenants to which Council is a Prescribed Authority, the Council must be provided with all relevant supporting information (such as works-as-executed drainage plans and certification) prior to Council endorsing the Instrument.
- c. In the event of any inconsistency between conditions of this approval and the drawings/documents referred to in condition 2, the conditions of this approval prevail.



SITE PLAN
1:200

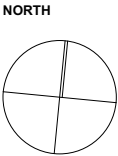
CALCULATIONS		
EXISTING SITE AREA	659.98m ²	
PROPOSED LOT AREA	LOT 700 = 297.95m ²	LOT 701 = 362.03m ²
EXISTING FRONTAGE	20.73m	
PROPOSED FRONTAGE	LOT 700 = 7.639m	LOT 701 = 13.091m



DATE 20/09/2016
DESCRIPTION ISSUE FOR DEVELOPMENT APPLICATION

ISSUE A

ADDRESS 12 BONALBO STREET, KINGSGROVE, NSW, 2208
PROJECT PROPOSED SUBDIVISION
LGA ROCKDALE CITY COUNCIL
STAGE DEVELOPMENT APPLICATION
CLIENT MR. RAY PERANT
DESIGNED BY SAF DEVELOPMENTS
DRAWN BY N.H
CHECKED BY N.H



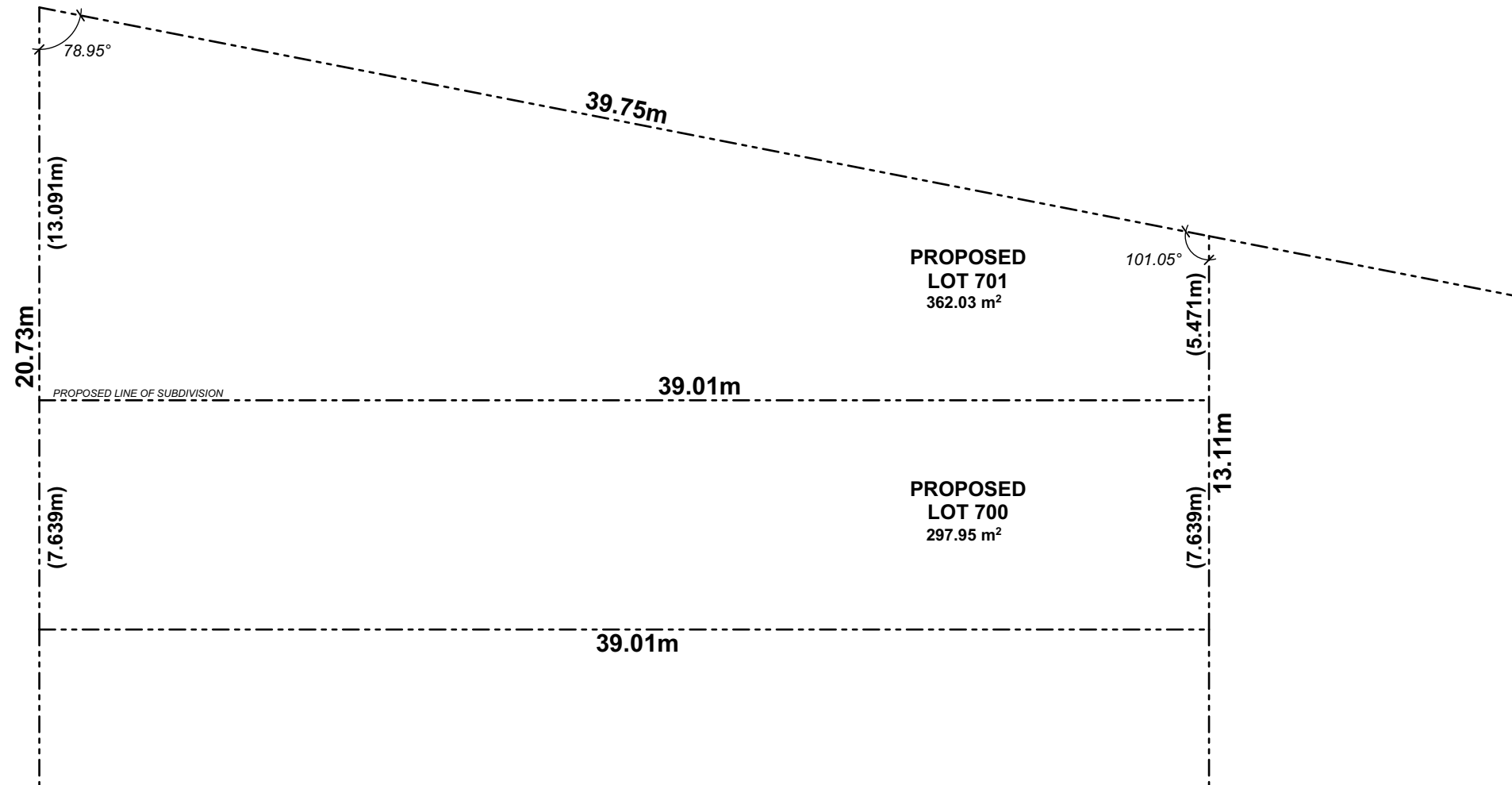
DRAWING TITLE
SITE PLAN

DRAWING NO
DA01

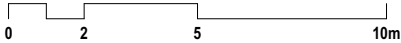
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BONALBO STREET



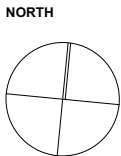
SUBDIVISION PLAN
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DATE	DESCRIPTION
20/09/2016	ISSUE FOR DEVELOPMENT APPLICATION

ISSUE
A

ADDRESS	12 BONALBO STREET, KINGSGROVE, NSW, 2208
PROJECT	PROPOSED SUBDIVISION
LGA	ROCKDALE CITY COUNCIL
STAGE	DEVELOPMENT APPLICATION
CLIENT	MR. RAY PERANT
DESIGNED BY	SAF DEVELOPMENTS
DRAWN BY	N.H
CHECKED BY	N.H



DRAWING TITLE
SUBDIVISION PLAN

DRAWING NO
DA02

SCALE
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Council Meeting

8/03/2017

Item No 10.1
Subject **Minutes of Botany Historical Trust Meeting – 13 February 2017**
Report by Susanna Waller, Manager Libraries and Customer Service
File (R) F17/20233

Council Resolution

Minute 2017/045

Resolved by the Administrator:

That the Minutes of the Botany Historical Trust Committee Meeting held on 13 February 2017 be confirmed.

Officer Recommendation

That the Minutes of the Botany Historical Trust Committee Meeting held on 13 February 2017 be confirmed.

Present

Ms Anne Slattery, President
Mr Christopher Hanna
Mr Robert Hanna
Dr Peter Orlovich
Ms Jacqueline Milledge

Also present

Meredith Wallace, General Manager
Debra Dawson, Director City Life
Hayla Doris, Manager Recreation and Community Services
Susanna Waller, Manager Libraries and Customer Services
Jenny MacRitchie, Heritage Librarian
Paula Grunseit, Community Engagement Librarian
Jan Nash, Coordinator Spatial and Asset Information
Samantha Sinnayah, Curator Museum

President Anne Slattery opened the meeting in the Mascot Library and George Hanna Memorial Museum at 6.30pm.

1 Acknowledgement of Traditional Owners

President Anne Slattery acknowledged the traditional custodians of the land, the Gadigal and Bidjigal clans.

2 Apologies

That the following apologies be received and leave of absence granted:

Alice McCann, Senior Vice President
Clarence Jones
Richard Smolenski

3 Minutes of Previous Meeting

3.1 Botany Historical Trust Meeting – 07 November 2016

On the motion of Jacqueline Milledge seconded by Robert Hanna

That the Minutes of the Botany Historical Meeting held on 07 November 2016 be confirmed.

4 Matters Arising from the Minutes

Item 6 - General Business

Robert Hanna and Anne Slattery noted that the floral wreath which was to be provided to the BHT Executive for the RSL Sub Branch Remembrance Day ceremony held on Sunday 13 November 2016 was not provided. Mascot RSL Sub Branch Secretary, Pam Richardson invited Anne Slattery share her wreath which was placed jointly on behalf of the BHT and the Mascot RSL Ladies Auxiliary.

Meredith Wallace responded that the omission of the wreath was an unfortunate oversight and that efforts would be made to ensure this did not reoccur.

Robert Hanna raised the matter of the annual ANZAC event at Booralee Park and expressed his wish that it would continue to be held. He also raised the matter of Australia Day events and noted that they were all held in the Rockdale area and not the Botany area. He also noted that the Botany Bay Gift was not held on Australia Day in 2017.

Meredith Wallace responded that both matters, ANZAC Day events and the Botany Bay Gift event, had been subject to reports to Council. The Bay Gift event was not a Council-run event and the organisation running the event had splintered. There was some dispute between Athletics NSW and the commercial organisation involved. It had been hoped that these difficulties could be resolved and the event could go ahead on a date near St Patrick's Day in March, when the event had originally been held.

Anne Slattery said she would like to see the event returned to St Joseph Banks Park where it had originated.

Meredith Wallace said that there would definitely be an ANZAC Day Dawn service at Booralee Park with a veteran's breakfast afterwards at a venue still to be confirmed. The traditional ANZAC Day march in Mascot would be held as usual on the Sunday before ANZAC day, which would be 23 April 2017.

Item 5.3 Update on Road and Park Naming at 128 and 130 – 150 Bunnerong Road, Pagewood

Jan Nash spoke about Meriton's objections to the proposed street names honouring the history of General Motors Holden on the site. Meriton has accepted Finch Street, Studio Street and Oscar Avenue honouring the film studio in the area. Meriton's request for Meriton Boulevard was rejected by the Geographical Names Board. There was some difficulty with the proposal for Pagewood Boulevard and Pagewood Green as the development is officially in the suburb of Eastgardens rather than Pagewood. After some discussion the Executive decided to replace Pagewood Green with Chauvel Green and replace Pagewood Boulevard with Tingwell Boulevard following the film company theme.

Charles Chauvel (1897-1959) OBE was an Australian producer, film maker and screenwriter. His production company produced the first 2 feature films that were produced at the Pagewood Film Studios. Among his most well-known films were Forty Thousand Horsemen and Jedda.

Charles (Bud) Tingwell AM (1923-2009) was born in Coogee. He was interviewed by Genie Wilson in 1992 during her research into Pagewood Film Studios. Bud Tingwell starred in Smiley, filmed in 1956 at Pagewood. He was a well-known Australian actor over many years, was also a radio announcer, and served as a pilot during WWII.

5 Disclosures of Interest

There were no disclosures of interest.

6 Reports

6.1 Local Studies and Museum Report

On the motion of Robert Hanna seconded by Jacqueline Milledge

That the report be noted with the following additions:

The deadline for the Heritage Report has been extended and it will be delivered by Elizabeth Conroy in early March 2017.

In a call for agenda items Peter Orlovich had suggested an exhibition about market gardens in the area, including those in the Rockdale area with heritage significance. Meredith Wallace was asked about the proposed new development on Kogarah Golf Course and the likely impact on the heritage-listed market gardens. Ms Wallace responded that the market gardens would not be affected but that the strip of land separating the cultivation from Crown Land would be included in the proposed development. Ms Wallace said that Council and the NSW State Government would not support the impingement of any heritage land

even if the proposed use was to be recreational. Anne Slattery suggested including Randwick's market gardens in the proposed exhibition and that collaboration would be good.

Regarding the book launch of Postings from the Front: the City of Botany Bay and World War I, Anne Slattery raised the matter that the letter to her from Brendan Nelson did not arrive and she had never seen it prior to it being included as an attachment in the Minutes. Meredith Wallace explained that all mail arriving at Council is opened as it is a Council record. Mail is digitised and kept as a record on TRIM. The only exception is if mail is marked 'Personal'. In which case, it will not be opened. Meredith Wallace said that staff would develop a process to ensure that any mail incoming for Anne Slattery will be redirected to her. The solution will be tabled at the next BHT meeting.

6.2 Council Archives

Peter Orlovich had prepared a paper to present to the meeting and it was agreed that the paper be deferred at this point and presented at the end of the meeting.

7 Events Program 2017

6.1 Proposed Events Program 2017

On the motion of Robert Hanna seconded by Christopher Hanna

That the events program for 2017 as tabled at the meeting be accepted.

8 Bayside Council Update

8.1 Senior Management positions and Eastgardens Library refurbishment

On the motion of Jacqueline Milledge seconded by Christopher Hanna

That the report be accepted.

Meredith Wallace gave an update on the organisational structure explaining that the new organisation has a four-department structure whereas the previous structure of both Councils was only three departments. Positions are being filled internally where possible. External advertising is only occurring where there are no current employees to fill these roles. After the Council elections in September 2017, the new Council can make changes to the organisational structure and roles, but cannot make changes to the people filling those roles, although it can appoint a General Manager, for example. Ms Milledge expressed some concern about work not being done in the streets as it would previously have been done. Ms Wallace thanked her for bringing this to her attention.

The proposed date for the start of refurbishments at Eastgardens Library is the end of March 2017. Robert Hanna asked about the relocation of the model of the Endeavour. Susanna Waller assured the Committee that the relocation of the model will be undertaken with the utmost care. The protective barrier will also be relocated and reinstalled with the model which may reside in Botany Town Hall. The Executive was concerned that few people would see it there. Meredith

Wallace said that there is a plan to have more activities at Botany Town Hall and other Council buildings, the idea being to make them more accessible to and useful for, the community. In this regard, Meredith Wallace said that she had been thinking about a permanent 'home' for the BHT and asked Anne Slattery if she and the Committee had considered a 'house' museum at AMAC House in Booralee Park, which is currently used for storage. Ms Slattery thought that it was a very good idea and Ms Milledge agreed. Council will undertake further investigations into the suitability of AMAC House for this purpose.

The General Manager, Meredith Wallace left the meeting at 7:30 pm to attend Council's Serbian flag-raising ceremony. Jan Nash also left the meeting at this time.

6.2 Council Archives

On the motion of Jacqueline Milledge seconded by Christopher Hanna

That the report be received.

Peter Orlovich presented a very comprehensive report on the Bayside Council Archives with a particular focus on:-

Discussion about relocation of records and archives
Effects of amalgamation on Council Records and Archives
Digitisation of some items in progress (Minute Books)

Susanna Waller assured Peter Orlovich that all the appropriate disposal authorities and schedules would be observed to ensure the integrity of Council's process in the matter of assessing records and archives prior to and post-refurbishment. Susanna Waller suggested that the Document and Records Coordinator could attend the next BHT meeting to explain the process and address any concerns the Committee may have. Debra Dawson recommended that Mr Orlovich's report be forwarded to the Document and Records Coordinator for consideration. Jacqueline Milledge thanked Peter Orlovich for preparing and presenting the paper and suggested the Committee adopt his paper as a working document. Robert Hanna moved that a subcommittee be established comprising himself and Peter Orlovich to meet with Susanna Waller and the appropriate Council staff including the Document and Records Coordinator. Susanna Waller agreed and will organise the meeting.

Susanna Waller left the meeting at 8:10 p.m.

9 General Business

Anne Slattery and the Executive expressed their thanks to Hayla Doris for her "unflappable patience" during the last few years as Manager of Community Services, Library and Museum.

10 Meeting Close

The President closed the meeting at 8:15 p.m.

Council Meeting

8/03/2017

Item No	10.2
Subject	Minutes of Bayside Traffic Committee – 1 March 2017
Report by	Jeremy Morgan, Manager City Infrastructure
File	(R) SC17/32

Council Resolution

Minute 2017/046

Resolved by the Administrator:

- 1 That the Minutes of the Bayside Traffic Committee meeting held on 1 March 2017 be received and the recommendations therein be adopted, with the exception of Item BTC17.26 - Railway Street, Kogarah West, south of the pedestrian tunnel - Proposed conversion of '2P, 8:30am-6pm, Mon – Fri, Permit Holders Excepted, Area KWB' to a combined '2P, 8:30am-6pm, Mon - Fri' and 'P45 minutes, 8:30am – 6pm, Mon - Fri' restrictions.
 - 2 With regard to Item BTC17.26 - Railway Street, Kogarah West, south of the pedestrian tunnel -Proposed conversion of '2P, 8:30am-6pm, Mon – Fri, Permit Holders Excepted, Area KWB' to a combined '2P, 8:30am-6pm, Mon - Fri' and 'P45 minutes, 8:30am – 6pm, Mon - Fri' restrictions, this item is to be referred back to the Bayside Traffic Committee for further consideration.
-

Officer Recommendation

That the Minutes of the Bayside Traffic Committee held on 1 March 2017 be received and the recommendations therein be adopted.

Present

Jeremy Morgan, Manager City Infrastructure, Bayside Council (Convenor)
James Suprain, representing Roads and Maritime Services
Traffic Sergeant Frank Gaal – St George LAC
Senior Constable Alexander Weissel, Botany Bay Police
George Perivolarellis representing State Members for Rockdale and Heffron
Les Crompton, representing State Member for Kogarah

Also present

Lyn Moore, NSW Pedestrian Council
Peter Whitney – State Transit Authority
Kathee Quirk – St George Bicycle User Group
Peter Hannett– St George Bicycle User Group
Pintara Lay, Coordinator Traffic and Road Safety, Bayside Council
Glen McKeachie, Coordinator Regulations, Bayside Council

Michael Lee, Traffic Engineer, Bayside Council
Agasteena Patel, Traffic Engineer, Bayside Council
Pat Hill, Traffic Committee Administrative Officer, Bayside Council

The Convenor opened the meeting in the Pindari Room, Rockdale Town Hall, at 9:18am.

1 Apologies

The following apologies were received:

Glen Baker- Team Leader Regulatory, Bayside Council
Rabih Bekdache – State Transit Authority – west
Eric Graham – State Transit Authority – East
Joe Scarpignato, St George Cabs
Christina Curry, representing State Member for Maroubra

2 Minutes of Previous Meetings

BTC17.18 Bayside Traffic Committee Meeting – 1 February 2017

Committee Recommendation

- 1 That the Minutes of the meeting of the Bayside Traffic Committee held on 1 February 2017 be confirmed.
- 2 That it be noted that the Committee recommendations included in the Minutes of the meeting of the Bayside Traffic Committee held on 1 February 2017 were adopted by the Council at its meeting held on 8 February 2017.

3 Disclosures of Interest

There were no disclosures of interest.

4 Reports

A Electronic Recommendations

There were no Electronic Recommendations took place before the meeting.

B Major Traffic Issues

BTC17.19 Lorraine Avenue, Bardwell Valley, south of Wilsons Road Proposed bus zones at the existing bus stops

Committee recommendation

- 1 That approval be given to the installation of a bus zone at the existing bus stop along the eastern kerb line of Lorraine Avenue, south of Wilsons Road, Bardwell Valley as follows:
 - From 0m to a point 12m – proposed 'No Stopping'
 - From 12m to 40m – proposed bus zone restriction
 - From 40m southward – retain parking
- 2 That approval be given to the installation of a bus zone at the existing bus stop along the western kerb line of Lorraine Avenue, south of Wilsons Road, Bardwell Valley, south of the common boundary between Nos. 43 and 45 Lorraine Avenue as follows:
 - 30m – proposed bus zone restriction

BTC17.20 Lorraine Avenue, Bardwell Valley, west of Lansdowne Street Proposed bus zones at the existing bus stops

Committee recommendation

- 1 That approval be given to the installation of a bus zone at the existing bus stop along the southern kerb line of Lorraine Avenue, west of Lansdowne Street, Bardwell Valley as follows:
 - From 0m to a point 10m – proposed 'No Stopping'
 - From 10m to 32m – proposed bus zone restriction
 - From 32m westward – retain parking
- 2 That approval be given to the installation of a 30m bus zone at the existing bus stop along the northern kerb line of Lorraine Avenue in front of Silver Jubilee Reserve.

BTC17.21 Lorraine Avenue, Bardwell Valley, north of Sackville Street Proposed bus zone at the existing bus stop

Committee recommendation

That approval be given to the installation of a bus zone at the existing bus stop along the eastern kerb line of Lorraine Avenue, north of Sackville Street, Bardwell Valley as follows:

- From 0m to a point 12m – proposed 'No Stopping'
- From 12m to 40m – proposed bus zone restriction

- From 40m northward – retain parking

**BTC17.22 Parliament Terrace, Bardwell Valley, north of Princes Street
Proposed bus zones at the existing bus stops**

Committee recommendation

- 1 That approval be given to the installation of a bus zone at the existing bus stop along the eastern kerb line of Parliament Terrace, north of Princes Street, Bardwell Valley as follows:
 - From 0m to a point 10m – proposed ‘No Stopping’
 - From 10m to 30m – proposed bus zones restriction
 - From 30m northward – retain parking
- 2 That approval be given to the installation of a bus zones at the existing bus stops along the western kerb line of Parliament Terrace, north of Princes Street, Bardwell Valley as follows:
 - From 0m to a point 10m – proposed ‘No Stopping’
 - From 10m to 30m – proposed bus zones restriction
 - From 30m northward – retain parking

**BTC17.23 Wolli Creek Road, east of Forest Road, Arncliffe Proposed
bus zone at the existing bus stop and ‘Mail Zone’**

Committee recommendation

That approval be given to the installation of a bus zone at the existing bus stop and the installation of a Mail Zone at Australia Post Mail box along the northern kerb line of Wolli Creek Road, east of Forest Road, Arncliffe as follows:

- 1 From 0m to a point 10m – Retain 10m ‘No Stopping’
- 2 From 10m to 16m- proposed 6m ‘Mail Zone’ restriction
- 3 From 16m to 23m – retain 7m of unrestricted parking
- 4 From 23m to 53m – proposed 30m ‘Bus Zone’ at the existing bus stop
- 5 From 53m to 59m – proposed 6m of unrestricted parking
- 6 From 59m to 69m – proposed 10m ‘No Stopping’ restriction

**BTC17.24 Croydon Road at its intersection with Ada Street, Bexley –
Proposed 6m extension of existing ‘No Stopping’ restriction**

Committee recommendation

That approval be given for the extension of existing 10m ‘No Stopping’ zone along the eastern kerb line of Croydon Road north of Ada Street by another 6m north of its original position.

**BTC17.25 Herbert Street, Rockdale, at its intersections with Arlington
Street and Clifford Street – proposed 10m statutory ‘No
Stopping’ sign-posting**

Committee recommendation

- 1 That approval be given for the installation of ‘No Stopping’ signs to highlight the 10m statutory ‘No Stopping’ restrictions on all corners of the intersection of Herbert Street and Arlington Street, Rockdale.
- 2 That approval be given for the installation of ‘No Stopping’ signs to highlight the 10m statutory ‘No Stopping’ restrictions on all corners of the intersection of Herbert Street and Clifford Street, Rockdale

**BTC17.26 Railway Street, Kogarah West, south of the pedestrian tunnel -
Proposed conversion of ‘2P, 8:30am-6pm, Mon – Fri, Permit
Holders Excepted, Area KWB’ to a combined ‘2P, 8:30am-6pm,
Mon - Fri’ and ‘P45 minutes, 8:30am – 6pm, Mon - Fri’
restrictions**

Committee recommendation

- 1 That approval be given to the conversion of:
 - existing ‘2P, 8:30am – 6pm, Permit Holders Excepted, Area KWB’ along the eastern kerb line of Railway Street, Kogarah West, south of the pedestrian tunnel to
 - a combined ‘2P, 8:30am – 6pm’ restriction for ten (10) parking spaces and twenty-six (26) spaces with a ‘P45 minute, 8:30am- 6pm’ restriction.
- 2 That the Kogarah Chamber of Commerce be thanked for their assistance in administering the Kogarah West Business parking permit scheme since its implementation.

Note: Member for Kogarah representative opposes Recommendation 1.

BTC17.27 Abercorn Street and Kingsland Road – Pedestrian refuge island detailed drawing for approval

Committee recommendation

That this item be deferred for further review.

**BTC17.28 Wilsons Road, Bardwell Valley, south of Fairview Street
Proposed bus zones at the existing bus stops**

Committee recommendation

- 1 That approval be given to the installation of a bus zones at the existing bus stops along the western kerb line of Wilsons Road, south of Fairview Street, Bardwell Valley as follows:
 - From 0m to a point 10m – proposed 'No Stopping'
 - From 10m to 30m – proposed bus zones restriction
 - From 30m southward – retain parking
- 2 That the bus stop on the eastern kerb line on Wilsons Road be reviewed in consultation with the STA and Australia Post.

C *Minor Traffic Issues*

BTC17.29 Clarence Road south of Tyrrell Street, Rockdale Proposed 'No Stopping' signage in conjunction with existing double centre lines

Committee recommendation

That approval be given for the installation of 87m of 'No Stopping' restrictions along eastern kerbline of Clarence Road south of Tyrrell Street outside numbers 35 to 47 Clarence Road.

**BTC17.30 Hillary Close and Mascot Drive Intersection, Mascot
Proposed 10m statutory 'No Stopping' sign-posting**

Committee recommendation

That approval be given for the installation of 'No Stopping' signs on all corners of the intersection of Hillary Close and Mascot Drive, Mascot to highlight the 10m 'No Stopping' restrictions.

**BTC17.31 Botany Road and Dent Street, Botany Proposed 10m
statutory 'No Stopping' sign-posting**

Committee recommendation

That approval be given for the installation of 'No Stopping' signs on all corners of the intersection of Botany Road and Dent Street, Botany to highlight the 10m 'No Stopping' restrictions.

**BTC17.32 Coward Street and Coggins Place, Mascot Proposed 10m
statutory 'No Stopping' sign-posting**

Committee recommendation

That approval be given for the installation of 'No Stopping' signs on all corners of the intersection of Coward Street and Coggins Place, Mascot to highlight the 10m 'No Stopping' restrictions.

5 General Business

**BTC17.33 General Business Session – Matters raised by members of
the Bayside Traffic Committee – Additional Items**

No additional items were raised.

The Convenor closed the meeting at 10.32am.

Council Meeting

8/03/2017

Item No	10.3
Subject	Minutes of Local Representation Committee 1 March 2017
Report by	Fausto Sut, Manager Governance
File	(R) SC16/277

Council Resolution

Minute 2017/047

Resolved by the Administrator:

That the Minutes of the Local Representation Committee of 1 March 2017 be received.

Recommendation

That the Minutes of the Local Representation Committee of 1 March 2017 be received.

Present

Greg Wright, Administrator
Joe Awada
Liz Barlow
Ron Bezic
Mark Castle
Christina Curry
George Glinatsis
Mark Hanna
Tarek Ibrahim
Petros Kalligas
James Macdonald
Nicholas Mickovski
Greg Mitchell
Shane O'Brien
Peter Poulos
Bill Saravinovski
Lydia Sedrak
Paul Sedrak
Brian Troy
Andrew Tsounis

Also Present

Meredith Wallace, General Manager
Fausto Sut, Manager Governance
Karen Purser, Manager Community Capacity Building
Zoran Sarin, Acting Manager Strategic Planning
Lauren Thomas, Governance Officer

The Administrator opened the meeting in the Upstairs Meeting Room of Coronation Hall, 1007 Botany Road, Mascot at 7:10 p.m.

1 Acknowledgement of Traditional Owners

The Administrator read the acknowledgement of traditional owners.

2 Apologies

There were no apologies.

3 Minutes of Previous Meeting

The Minutes of the Local Representation Committee Meeting held on 1 February 2017 be confirmed.

In relation to Item 9.2 of the Minutes, Liz Barlow advised that they did not reflect what Mark Hanna and herself had commented on which was that:

- the fee structure should be looked at;
- it was their opinion that 45-minute parking does not help the shops;
- to benefit the shops in Station street, the 45-minute parking should be within the shopping strip;
- and the map is incorrect as to the location of the 90-degree parking – it is on the incorrect side of Station Street however, the computer-generated map detailing the parking spots is correct.

4 Disclosures of Interest

There were no disclosures of interest.

5 Update on Transition Plan Milestones

Meredith Wallace presented an overview of the progress in the last month on the transition plans of Bayside Council. This is summarised as follows:

- There has been good progress on budget consolidation and there should be one budget for Bayside 2017/2018. Council is using the Tech One program to achieve this.
- A draft Operational Plan and Budget 2017/2018 should be completed by April.
- IT's work to move Council to the Cloud is on track for Easter. It is a very stable and fast system. Lack of speed has been a problem for Council's remotes sites up until now however, the move to the Cloud should remove this issue.
- In regard to the Staff Structure – the majority of Manager appointments have been made to all existing roles with internal appointments. There are some remaining

new Management roles which have been advertised externally. Council is now working on the staff structure below Management level.

- An accommodation strategy report will be going to the Council meeting next week. It has been difficult to pin down the exact number of staff with such a large number of full-time, part-time, temporary and casual employees.
- Council's two pay periods are being aligned and both Bayside East and Bayside West operate on a 7-day salary system which has made this task a bit easier. There will be no financial disadvantage to any staff member.
- A rewards and recognition policy is currently being developed.
- A staff uniform committee was formed and they are making progress towards selecting the new Bayside Council uniform.
- A plan is in place for decommissioning all the former Councils' signage.
- The Stronger Communities Panel will meet on 10 March 2017. Council has been overwhelmed with applications for small grants and we now have some tough decisions to make.
- The Lunar New Year celebrations at Daceyville Gardens were a great success.
- The General Manager has been attending the Business Enterprise Centre meetings.
- Council is looking for a permanent home for the Botany Historical Trust and the former AMAC House building is being considered for this. Council is also looking at ways to provide greater community access in general to some of Council's facilities.

Greg Wright advised that the recent de-amalgamation headlines in the media caused uncertainty and concern for several weeks to staff who had already put in so much hard work for amalgamation. However, the Premier's announcement that mergers would continue has now alleviated staff's concerns.

MH: Is there any reason for a weekly pay system? I don't believe that many organisations would run a weekly pay cycle anymore. It seems a bit old-fashioned.

MW: Both East and West Bayside are already operating under a weekly salary system and it would be quite labour intensive to change this. Furthermore, whenever you make changes to a salary system, it raises issues for unions as well as staff who don't like the change.

BS: Have any staff been approached to take a redundancy package?

MW: There have been no forced redundancies and we will find meaningful, genuine positions for every member of staff below Manager level.

AT: I have heard from some staff members that they are quite stressed with the work load that amalgamation has caused.

MW: Everyone is working very hard as there is a lot to achieve in the short-term. However, things are moving along very well and staff have been very co-operative with the process and each other.

GW: I have been very impressed by all that has been achieved by staff and their work ethic. And this is most certainly helped by Meredith being a very humanistic General Manager.

6 Capital Works Update

The General Manager advised members that:

- The Angelo Anestis Aquatic Centre was completed on budget and ahead of schedule. The official opening was held on 25 January 2017 and the facility opened to the public on Australia day. There have been a few teething issues with the extremely hot days we have experienced lately and managing the crowds.
- The tender for the design and construction of the Bicentennial Park Synthetic Field Project has been advertised and closes on 30 March 2017. A solution is in place to tackle the methane gas issue. A report on the tender will go to either the April or May Council meeting.
- The Mascot Childcare Centre has been completed and an official opening is currently being scheduled. All members of the Local Representation Committee will be notified of the Official Opening date when it has been scheduled.
- Options for the design of the Eastgardens Library and Customer Service Centre have been developed. Funding for the project will be considered at the 10 March 2017 Stronger Communities Panel meeting. Initially, Eastgardens management were resistant to the idea however, when they saw the way that Council wants to utilise the space, they are now excited about Council's plans.
- The construction of the Boralee Park Sports field amenities is currently out for tender.
- The Botany Shops streetscape projects have been completed.

GM: The Major Projects program showed an impression of the proposed Library upgrade however, it was for a cost of \$1 million. How will the \$2.5 million be spent?

MW: The works proposed for the library are more extensive than originally proposed.

GW: As soon as we have some more substantial plans, we will show this to members.

MW: It will be a similar concept to the Rockdale Library. The back room space that is currently used by Community Services staff as well as some Library staff, will be given back to the public.

AT: How much rent does Council pay for the Library and former Mayor's office?

MW: An agreement was made between Westfield and Council when the site was first developed that Council would pay rent of \$1 per year in perpetuity.

7 Upcoming Events

The Administrator advised members of the following upcoming Bayside events for March and April:

14 March 2017 – Citizenship Ceremony

18 March 2017 – Botany Bay Gift

24 March 2017 – Greek Flag Raising

9 April 2017 – StART – Cook Park, Kyeemagh, 11.30am -3.30pm, Free Family Event - Craft workshops, Circus skills, Lego play

ANZAC Commemorations:

23 April 2017 – Mascot RSL Sub-Branch will be holding their ANZAC Day Commemorative Service and March – 2:15 p.m. - march from Baxter Road to Mascot Memorial Park, followed by a community barbeque.

23 April 2017 – Rockdale RSL Sub-Branch will be holding their ANZAC Day Commemorative Service and March. 2:30 p.m. service at Uniting Church, 9-11 Bay Street, Rockdale followed by march. After the march -refreshments at Rockdale RSL Club.

25 April 2017 – Arncliffe RSL Sub-Branch will be holding their ANZAC Dawn Service 6:00 a.m. at Arncliffe Park

25 April 2017 – Botany RSL Sub-Branch will be holding their ANZAC Dawn Service 6:00 a.m. at Boralee Park, Botany followed by a community barbeque.

25 April 2017 – Bexley RSL Sub-Branch will be holding their ANZAC Dawn Service 6:00 a.m. at Bexley RSL Sub-Branch

25 April 2017 – Brighton Le Sands RSL Sub-Branch will be holding their ANZAC Dawn Service 6:00 a.m.

25 April 2017 – Ramsgate RSL Memorial Club will be holding their ANZAC March 7:00 a.m. commencement at Sans Souci Literary Institute followed by Dawn Service at 7:30 a.m.

25 April 2017 - Rockdale RSL Club will be holding a 6:00am memorial service at the Wall of Remembrance, Memorial Gardens, cnr Seven Ways and Princes Highway, Rockdale

25 April 2017 – Earlwood-Bardwell Park RSL Sub-Branch will be holding a memorial service at 6:00am in the Memorial Garden of the RSL Club.

25 April 2017 - Kingsgrove RSL Club will be holding a memorial service at 7:00am in the Memorial Park at the RSL Club.

and

27 April 2017 – Yamatsuri – St Ursulas and Kogarah Marist

With there being 14 separate ANZAC events, it is impossible for the Administrator and General Manager to attend all of them. The Administrator advised Members that if they were interested in attending any of these events on his behalf, forms had been created for each event that they could fill out.

An additional form had also been created for attendance/representation at the Rockdale Football Club Season Launch.

8 Stronger Communities Grants Project

Karen Purser made a presentation to Members on the Stronger Communities Grants Project to give an overview of the process that Council has been through for this project.

- \$1 million has been allocated for community grants and it the money will be rolled out in two waves of \$500,000 each.
- Applications are for between \$10,000 and \$50,000.
- The community grants were promoted through the Bayside Community Newsletter, local papers, Council's online newsletter, Facebook and Twitter.
- Eight information sessions were held – four at Rockdale Library and four at Eastgardens Library. 127 people attended. The briefings included explaining the background, guidelines and directing them to Council's demographic information so that applicants could take an evidence-based approach.
- Applications closed on 24 February 2017.
- There were 37 applications for grants and the total dollar value of all requests is \$1.29 million.
- Applications will now be collated/vetted.
- The Assessment Panel will meet on 10 March 2017 to consider all community grants and their recommendations and the successful projects will be in a report to the April Council meeting.

MH: What if an organisation's application was for an amount of \$7,000 but the grant is only \$5,000?

KP: You could split your project into two parts however nobody came to us and said it was an issue.

9 Stronger Communities Major Projects Program

Karen Purser also made a presentation to Members on the Stronger Communities Major Projects Program.

- \$9 million has been allocated and the process for this program is very different to the community grants.
- An internal working group identifies unfunded projects which have previously been considered by Council and the community as important. It can include new facilities or replacement facilities.
- A priority listing is made.
- The current condition of assets has informed the choice of projects for consideration by the community and assessment by the panel.
- There are more dollars sought than dollars that are available.

- A number of smaller projects were considered as well.
- The working party identified a priority listing consisting of six major projects.
- A further 24 smaller projects which meet the criteria are also eligible to be considered by the Assessment Panel.
- All projects identified in the priority listing will be assessed by the Panel against the criteria as set by the State Government.
- Community feedback was sought through Council's "Have Your Say" website which was promoted through newsletters, Facebook, Twitter, community networks and emailed to contacts.
- A detailed description of the major projects and a headline description of the smaller projects was provided for feedback; as well as frequently asked questions about the process.
- There was also an online survey which 90 people participated in. Council asked for each participants email address to ensure that answers were genuine.

NM: Does the \$2.5 million allocated for the new Customer Service Centre and Library and Eastgardens incorporate the former Mayor's office?

MW: Yes.

NM: When is the estimated time of commencement?

MW: The project will be presented to the April Council meeting and I anticipate that Council will make a decision at that meeting.

AT: The list of projects is not in any order. Will Council supplement some projects if there are not enough funds?

MW: The final decision will rest with Council. If further funding is required, Council will make a decision on this.

MW: There will be sufficient Section 94 funds to cover Jellicoe Park so that project that will come off the list and make room for another to be funded from the \$9 million.

AT: Is the Department of Local Government involved in the process?

MW: No.

AT: How were the results of the feedback determined?

KP: All amalgamated Councils were required to ask the community for feedback through the "Have Your Say" website which was promoted through newsletters. A comprehensive list was made of all projects and the support for each project. There was very little difference in scores between projects. Applications will be collated/vetted and the Assessment Panel will meet on 10 March 2017. Recommendations will then be made to Council and the successful projects announced.

JM: If a grant application is for \$40,000 but it is made up of parts, how would that be funded?

- KP: There is a question on the application form “If you could only receive part of the money required, would you be able to proceed with the project?”
- MH: All of the applications add up to \$12.4 million. Would all projects get scaled back so that all could receive some funding?
- GW: Council would rather deliver full projects with appropriate budgets and not try to partly fund them all, as this approach would provide greater community value.

10 IHAP – Expressions of Interest

Fausto Sut gave Members an update on the progress of Expressions of Interest for the new Bayside Independent Hearing and Assessment Panel.

- The IHAP consists of three independent specialists and two community representatives. The Charter allows the General Manager to appoint additional members to form a pool of panel members.
- Council asked for Expressions of Interest (EOIs) over a three-week period in February. This was advertised in the local newspapers and the Sydney Morning Herald.
- Council is extremely pleased with the response for specialists with there being 41 applications for specialist positions. All are very highly qualified and from a diverse field of specialities.
- 12 successful applicants have been selected to form a pool of panel members, taking into account workload, conflicts of interest and types of specialists for the applications.
- There were only five community applicants. However we need a bigger pool of community applicants to choose from (i.e. at least one from each Ward) before we can make all the appointments. So we have extended the application period for community members for another two weeks. Advertisements have been placed in the “St George Leader” and “Southern Courier” newspapers and close on 13 March 2017.
- It is proposed that the first IHAP meeting will be held on Tuesday 28 March 2017, subject to Panel members’ availability. Subsequent meetings will be held on the second and fourth Tuesday of each month.

BS: Meetings should be open to the public so that they can listen to the debate.

GW: We did make provision for that in the IHAP Charter as well as scheduling meetings at a suitable time for people to attend after work. We did listen to your feedback and incorporate it into the Charter.

11 Action Items Review

9.1 Action Items Review

Answers were provided to Members regarding questions that arose at the February Local Representation Committee meeting.

12 Advice from Members on Local Issues

JA: Can we have a status update on the York Street carpark?

GW: I'm not sure what the status is. I'll ask the relevant Council officers to give me an update and get back to you.

GM: Who is responsible for removing the mature trees from the section of Coward Street, between Bourke and O'Riordan Streets on the northern side of the road? And why were they removed?

GW: I will make enquiries about this and report back to you when I have a response.

GM: The signage for Mascot Park, at the corner of O'Riordan and Coward Streets, has been removed. This was the gateway to the park. Can some sort of metal barrier/structure be installed in place of this?

GW: I will look into this.

GM: The landscaping maintenance at Mascot Oval is not progressing as it should. It needs to be done more often.

MW: I have been assured by the relevant Managers that the maintenance schedule has not changed from the usual 6-8 week cycle. Every year at this time of year complaints are received by Council; mainly due to the summer weather pattern.

GM: It's not due to too many staff taking annual leave or a reduction of service levels is it?

GW: I don't believe there has been any reduction in service levels nor that it is due to staff taking annual leave.

GM: It should be a priority.

MW: I will compare the current schedule to the schedule for the past six months and provide the schedule to you.

GW: It should also be taken into account that the recent heat wave conditions followed by many days of heavy rain has been quite different to the normal summer weather pattern and this will be a contributing factor.

GM: There have been recent Council clean-up days where the rubbish was not collected until many days later than the scheduled clean-up day. Can Council ensure that the rubbish is collected as soon as possible on the scheduled day?

GW: Council hasn't changed the service standard. I personally do not like seeing these clean-up rubbish collections out on the nature strips and I agree that it makes a very unsightly landscape.

GM: I have noticed that West Bayside collect green waste. East Bayside has not had a green waste collection service.

MW: West Bayside's general waste and green waste are co-mingled because it goes to an alternate waste treatment plant where it can be processed.

GG: I received a phone call today from a resident who advised me that nine large tree branches fell down in Boralee Park two weeks ago but they have still not been picked up by Council.

MW: I will get someone out there to look at it.

MH: At the new Aquatic Centre, would Council consider displaying nicely-framed photos of both the construction of the old Bexley Pool as well as the construction of the new pool? There was also a plaque which was installed at the opening of the original Bexley Pool back on 6 March 1976; could that be located and also displayed at the new pool?

MW: I will take this into consideration and locate the photos and plaque.

AT: With regard to the proposed container recycling plant, has the State Government asked about how much is needed?

MW: I've heard nothing back.

CC: There are a number of dumped, unregistered vehicles in the East Bayside area that have been sitting there for quite some time.

GW: If there is a particular problem area, please let us know.

CC: Are there any plans for the Mascot Administration Centre?

MW: None at the moment. It will be up to the newly-elected Council to make some decisions in regard to that.

JM: Do all of Council's regulation officers finish work at 8:00 pm?

MW: There has been no change to the Bayside West regulation officers' hours. They finish work at 6:00 pm and the Bayside East regulation officers finish at 8:00 pm. However, we are going to advertise for more regulation staff so that very soon there will be no regulation officer working a shift alone. There may also possibly be an after-hours call out service in the future.

JM: The reason I ask is because trucks have been parking in the residential streets which have a one-hour time limit after 6:00pm when they know the rangers aren't on duty and they are leaving their trucks parked there all night.

MW: We can organise after-hours patrols when these sort of things occur.

13 Date of Next Meeting

The Administrator advised members that the next Meeting would be held on Wednesday, 5 April 2017.

14 Meeting Close

The Administrator closed the meeting at 8:38 pm.

Council Meeting

8/03/2017

Item No	11.1
Subject	Closed Council Meeting
Report by	Fausto Sut, Manager Governance
File	(R) SF16/14001

Summary

This report recommends that the Council Meeting be closed to the press and public in order to consider the item/s below.

Council's Code of Meeting Practice allows members of the public to make representations to or at a meeting, before any part of the meeting is closed to the public, as to whether that part of the meeting should be closed.

Council Resolution

The Administrator did not close the meeting to the press and public.

Minute 2017/048

Resolved by the Administrator:

That, in accordance with section 11 (2) and (3) of the Local Government Act 1993, the attachment relating to the following item be withheld from the press and public as it is confidential for the reasons outlined:

11.2 CONFIDENTIAL ATTACHMENTS – 1 Market Street, Rockdale - Redevelopment

With reference to section 10A (2) (c) of the Local Government Act 1993, the attachment was withheld from the press and public for the reason that, if disclosed, it could confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. It is considered that if the attachment were disclosed in an open Council Meeting it would, on balance, be contrary to the public interest due to the issue it deals with.

Officer Recommendation

- 1 That, in accordance with section 10A (1) of the Local Government Act 1993, the Council considers the following item/s in closed Council Meeting, from which the press and public are excluded, for the reason/s indicated:

11.2 CONFIDENTIAL – 1 Market Street, Rockdale – Confidential Attachments

In accordance with section 10A (2) (c) of the Local Government Act 1993, the Council resolves itself into closed session with the press and public excluded by

reasons of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. It is considered that if the matter were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the issue it deals with.

- 2 That, in accordance with section 11 (2) and (3) of the Local Government Act 1993, the reports, correspondence and other documentation relating to these items be withheld from the press and public.

Council Meeting

8/03/2017

Item No	11.2
Subject	PULIC CONFIDENTIAL – 1 Market Street, Rockdale – Confidential Attachments
Report by	Ben Heraud, (Acting) Manager – Property and Venues Jeff Appel - Development Manager
File	F15/448

The Administrator did not close the meeting to the press and public.

Confidential

In accordance with section 10A (2) (c) of the Local Government Act 1993, the Council resolves itself into closed session with the press and public excluded by reasons of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business. It is considered that if the matter were discussed in an open Council Meeting it would, on balance, be contrary to the public interest due to the issue it deals with.

Council Meeting

8/03/2017

Item No	11.3
Subject	Resumption of Open Council Meeting
Report by	Fausto Sut, Manager Governance
File	(R) 16/140021

Summary

This report recommends that the closed part of the Council Meeting concludes and that the meeting be opened to the press and public.

Council's Code of Meeting Practice requires that, if Council passes a resolution during a meeting, or part of a meeting, that is closed to the public, the Chairperson will make the resolution public as soon as practicable after the closed part of the meeting has ended.

The Administrator did not close the meeting to the press and public.

Officer Recommendation

That, the closed part of the meeting having concluded, the open Council Meeting resume and it be open to the press and public.